Note: The input provided below is organized according to the substantive area of review, as discussed in the PPN meeting on 5/6/13. The input provided by stakeholders has not been summarized. In some instances, stakeholders submitted input that addressed multiple substantive areas of review and/or included general input. In those instances, the input was separated and paired with the specific substantive area of review and any remaining input was placed in a "General" category at the end of this document.

I. Program Description Document Part I.A

Stakeholder	Input
Colorado Stormwater Council	**1.** Program Description Document The permittee must develop and maintain a written Program Description Document (PDD) that documents procedures, practices and programs implemented to meet permit requirements. The purpose of the PDD is to maintain a current summary of all compliance activities and documents that comprise the permittee's Stormwater Management Program (Program). Documentation The PDD must contain the following format and information: a. A description of how each permit requirement is being met. The description must include citations of elements (e.g., regulatory mechanisms, plans, procedures) used to comply with Permit requirements. b. The PDD must include an organizational chart indicating the departments involved in the Program implementation. c. The PDD must indicate how the permittees Program will be documented, including the location and format (hard copy and/or electronic) of the documentation d. For permit elements that require the implementation of companion documents (ordinance, intergovernmental agreement, codes, manuals, SOPs, guidance), the PDD must include the names of the companion documents, adopted dates, revised date, location where the supporting documentation is maintained, and any other identifying information. e. The PDD must be maintained in a format (hard copy and/or electronic) to be submitted to the Division within 30 business days of the request. Rationale 1. An organization chart with department or work groups involved in the implementation of the Permittee's Stormwater Program allows identification of appropriate legal contact, as well as contacts and responsibility for implementing specific program elements. 2. While specifics of the contents of the PDD are not yet known, a 30-day time frame for submittal to the Division upon request is recommended. This time frame is reasonable if a request of a PDD will have some level of compliance assessment associated with it. While it is expected the PDD will be a living document, it should be clear that some documents, if included in the PDD, (e.g., SOPs for Municipal Operations) may only be reviewed and updated annually, in conjunction with the required annual program review, or the proposed facility inspection requirement, for example.

Golden	Permit Description Document (PDD) Golden is concerned about what the Division means when they state that the PDD must be maintained to reflect current conditions. If this requirement is enforced literally, there will be a significant administrative burden to document minor changes to the PDD with no environmental or programmatic benefit. For example, if an SOP for storm sewer system maintenance includes a list of equipment used, but the list has changed because newer equipment is procured, this would normally be documented when a routine review of SOPs with applicable personnel occurs. This change does not impact the intent of the permit or the performance of required activities. On the other hand, significant process changes, such as changing procedures pertaining to the construction sites program, do merit timely changes to procedure documents. Golden requests that the permit allow minor modifications to be made during routine reviews of SOPs or other documents while the requirement that the PDD reflect current conditions be limited to elements of the program that directly impact permit compliance and the MS4s ability to comply with program elements.
Keep it Clean Partnership	The Permittee must develop and follow a written Program Description Document (PDD) that documents current procedures, practices, and programs implemented to meet permit requirements. The purpose of the PDD is to maintain a current summary of all compliance activities and documents that comprise the Permittee's Stormwater Management Program (Program). Documentation The PDD must contain the following: a. A description of how each permit element is being met. The description must include citations of elements (e.g., regulatory mechanisms, plans, procedures) used to comply with permit requirements. b. An organizational chart and a description of the parts of the organization that involved in the program implementation. c. A description of how the Permittee's program is documented and how that documentation is maintained and updated. For permit elements that require the implementation of companion documents (e.g. ordinance, intergovernmental agreement, codes, manuals, SOPs, guidance), the PDD must include a list of the documents and a copy of the most recent versions of the documents, or a reference to the locations in the Permittee's records where the most recent versions can be readily accessed. d. A copy of the current version of the PDD shall be submitted to the Division within 10 business days of receipt of a request from the Division. PDD Rationale 1. Depending on how the permit is organized, it may or may not make sense to organize the PDD according to the permit numbering format. It may be more appropriate to have a section that specifically lists out the requirements for the PDD instead of saying that it needs to be numbered like the permit. 2. An organization chart with department or work groups involved in the implementation of the stormwater program allows identification of appropriate legal contact, as well as contacts and responsibility for implementing specific program elements.
Southeast Metro Stormwater Authority (SEMSWA)	Feasibility of Division's Concepts: We agree that this is a very valuable tool for the MS4. This constitutes the MS4's dynamic management of Permit programs, and thought this was already a component of our permit to some extent. The addition of an organizational chart in a manner that allows internal staff and external entities to understand at a glance who is doing what in terms of implementation is a good suggestion. This will be a dynamic document to some extent, and should be, to be effective.

	WQ Outcome of Concept: The WQ benefit for this concept is indirect, at best. If new staff are brought on, they will be up-to-speed faster, more comprehensively, and efficiently than if all new staff training is done verbally and over time. It could be used to inform other resource agencies about the MS4 permit approach being used and how coordination could be effectively achieved. If the main purpose is for the Division requesting the PDD for an audit, that will result in no meaningful benefit to water quality. Costs: The cost of upkeep of the PDD is part of each program area, and that has been discussed previously. Practice-based Effluent Limit: 1. Clear, concise language for Division requirements of a PDD in terms of implementing the program areas and keeping a current summary of activities. 2. Submitted to the Division with a 30 day request. This is a dynamic document and there should be no time pressure to provide it to the Division within 5 days, as it is for auditing purposes and not immediate WQ benefit purposes. Alternatives: No alternative. Recommendation for Permit 1. Leave PDD as guidance for the implementation processes within in our control to maximize our efforts, and not include too much detail as a prescriptive process in the Permit. Include a list of things that you feel need to be more robust in a PDD document. Identify those few MS4s that do not appear to have an implementation scenario or any PDD existing and let the balance of MS4s continue with successful programs.

II. Permit Coverage (Counties) Part I.A.3

Stakeholder	Input
Metro Housing Coalition Home Builders Association of Metro Denver	Page 18, second bullet states, "The Division has regulatory authority to designate growth areas so that urban character growth is covered by construction and post construction BMPs. The Division currently requires permit coverage of all program areas for the entire municipality and a similar requirement may make sense for counties to address potential growth areas that may be a significant pollution source". We do not understand why this would be subjected to the general permit. Shouldn't proximity of streams and other water and drainage areas be the focus versus subjecting an overall rule on 10,000+ populations as designated growth areas as the goal? Agriculture will be the only sector not regulated in this scenario and they tend to be the biggest offenders. The HBA just went through the General Construction Permit review and we do not see the interaction of this approach. The common goal of protecting water quality would suggest that CDPHE would be more effective providing advice and technical support to all sectors and not use enforcement violations and enforcement escalation as the only tool in the toolbox.

Douglas County	In general, the County agrees with the division's process for expanding the Counties permit boundary. The County believes that flexibility in these rural portions of the County is critical. We suggest that allowances be made for projects and activities that do not meet the urban designation in the expanded boundary areas. These allowances will insure that urban regulations are not improperly applied to non-urban projects and activities.

III. Public Education Part I.B.1

<table>
<tr><th>Stakeholder</th><th>Input</th></tr>
<tr><td>Colorado Stormwater Council</td><td>
1. Public Education and Outreach on Stormwater Impacts
a. All aspects for Public Education and Outreach can be met through a collaborative approach.
b. The permittee must have a website that provides the following:
i. Statement that permittee holds certification under a general permit and must meet the general permit requirements.
ii. Contact for stormwater information.
c. The permittee must develop, implement and document a public education program to promote behavior change to reduce water quality impacts associated with pollutants in stormwater runoff and illicit discharges that includes:
i. Basic message that storm drains discharge to surface water bodies, untreated.
ii. Messaging to targeted audiences about pollutants, determined by the permittee to have potential to impact water quality, and likely generated by activities of target audience. Targeted audience or specific messaging must include:
1. Businesses;
2. General public;
3. Prohibitions against and/or water quality impacts associated with illicit discharges and improper disposal of waste;
4. Nutrients; and
5. Steps that can be taken to reduce pollutants in stormwater runoff.
iii. Availability of stormwater quality information at points of public contact.
iv. Completion of at least six education and outreach strategies from the following table within the permit term.
1. Public Education Program elements not included in this list shall be submitted to the Division for approval in accordance with (Program Modification section) only if the minimums required will not be met and alternate elements are submitted and approved to meet the requirements.
<table>
<tr><th>Public Education Activities List</th></tr>
<tr><td>6 activities from the list below must be completed within the permit term.</td></tr>
<tr><td>Advertising – Audio (Radio)</td></tr>
<tr><td>Advertising – Billboard</td></tr>
<tr><td>Advertising – Bus Shelters</td></tr>
<tr><td>Advertising – In a newspaper</td></tr>
<tr><td>Advertising – Movie</td></tr>
<tr><td>Advertising – On a bench</td></tr>
<tr><td>Advertising – On a bus/vehicle</td></tr>
</table>
</td></tr>
</table>

Advertising – PSAs (Segment on TV)
Article published (in print or online)
Citizen Survey
Educational Material Distribution (Such as a brochure, fact sheet, etc)
Give-aways (Promotional items and/or items that encourage behavior change DVD's, Bumper Stickers)
Maintain website with stormwater information that includes actions that can be taken to reduce stormwater pollution
MS4 Adopt a Street/Waterway Program
Participate in a Clean Up Event/Service Project
Participate in a Water Festival
Participate/Promote/Sponsor a Household Hazardous Waste Event
Participate/Promote/Sponsor a Motor Vehicle Fluids Recycling Program
Pet Waste Stations
Promote local stormwater/environmental events (Water Festival, Creek Clean Up, etc)
School-age Program
Signage/Educational Material with stormwater message targeting a specific pollutant or illegal discharge/dumping such as pet waste signage, car wash signage, etc
Social Media Program
Speaker Presentations
Storm drain stenciling or marking conducted by staff (Includes precast inlets and/or manhole cover signage)
Storm drain stenciling or marking program with Public/Community Participation (Includes precast inlets and/or manhole cover signage)
Stormwater Activities: Games, Poster Contest
Stormwater Booth at a Community Event
Demonstration Garden that shows BMPs or other pollutant reduction methods (water conservation, stormwater infiltration, plants/methods that reduce chemical inputs)
Stormwater Hotline Number or other method for reporting an illicit discharges
Targeted printed material addressing specific pollutants of concern
Train volunteer citizen educators on water quality impacts associated with illicit discharges and improper disposal of waste
Tributary Signage
Utility Bill Insert

Rationale

1. The proposed language provides additional clarity to fulfill Public Education and Outreach requirements, including specific language requiring targeted messaging to specific audiences about potential associated pollutants.
2. Multiple efforts within the same strategy should be counted as discrete individual outreach efforts. The program must meet the minimum requirements that address a variety of messages to a variety of audiences. One outreach strategy cannot meet the whole program requirement; for example, bus benches to will not meet the all of the education and outreach program requirements.

Keep it Clean Partnership Coordinator

The Permittee must have a website that provides the following:

1. A copy of the General Permit or a link to State's website containing the Phase II MS4 Permit.
2. A statement explaining that the Permittee must meet permit requirements.
3. Contact for the MS4 permit requirement's information.

The Permittee must develop, implement, and document a public education program to promote behavior change to reduce water quality impacts associated with pollutants determined by the Permittee to be of concern in stormwater runoff and illicit discharges. The program shall include the following:

1. A basic message that storm drains discharge to surface water bodies, untreated, or a message that directly relates behaviors to water quality impacts.
2. Messaging to targeted audiences addressing pollutants determined by the Permittee to have the potential to impact the beneficial uses of receiving waters, the behaviors contributing to them, and steps that can be taken to reduce pollutants in stormwater runoff.
3. Strategies and methods for informing businesses of the MS4's prohibitions against and/or the water quality impacts associated with illegal discharges and improper disposal of waste.
4. Strategies and methods for informing the general public of the MS4's prohibitions against and/or the water quality impacts associated with illegal discharges and improper disposal of waste.
5. Strategies and methods informing the public about the stormwater impacts associated with nutrients (nitrogen and phosphorus) in stormwater runoff.
6. Stormwater quality information for the public is made available, at points of public access (e.g., government offices, inspectors, code enforcement).
7. Implementation of at least two education and outreach strategies from each column of the following table each year.

GROUP A Passive Outreach	GROUP B Active Outreach	GROUP C Interactive Outreach

• Distribution of educational material distribution (brochure, fact sheet, utility bill insert, etc.) • Article published (in print or online) • Advertising (one of the following): -Newspaper -TV -Radio -Bus shelters -Bench -Bus/vehicle -Billboard -Movie theater -Newspaper • Storm drain stenciling program or marking conducted by staff (includes manhole cover) • Signage (pet waste, car wash, tributary, etc.)	• Advertisement/promotion of a stormwater hotline number or other method for individuals to report an illicit discharge or get more information about the stormwater program. • Social media programs (one of the following): -Facebook -Twitter -Blogs • In addition to the website contents in 1.b., website information that includes actions that can be taken to reduce stormwater pollution. • Newsletters (hardcopy or electronic) • Promotion of existing local stormwater/environmental events and programs that help protect water quality (motor vehicle fluids recycling program, water festival, creek cleanup, household hazardous waste, etc.) • Stormwater activities (games, online games, poster contest, drawing, etc.) • Distribution of promotional items and/or items (giveaways, e.g. DVD's, bumper stickers, tattoos, coloring books, car chamois, dog poop bags, water bottles, etc.) • E-mails	• Participate in or sponsor local stormwater/environmental events (water festival, creek cleanup, service project, etc.) • Stormwater booth at a community event • School presentations (one of the following): -Teacher training -Classroom -Field trips • Storm drain stenciling or marking program with public/community participation • Pet waste stations • Speaker presentations • One-on-one advising or assistance • Participate in or sponsor a household hazardous waste event • Motor vehicle fluids recycling program • Stormwater demonstration projects that shows best management practices (BMPs) or other pollutant reduction methods • Adopt a storm drain, street, or waterway/ program • Citizen survey

- Group A is passive outreach where the content/message is given or available to the user.
- Group B is active outreach where the content/message is initiated by the user.
- Group C involves direct interaction with the public or provides opportunities for public participation.
- Other: Public Education Program elements not covered by this list shall be submitted to the Division for approval only if the minimums required above are not met and other items will be used to meet the requirement.

	MCM 1 Rationale 3. The proposed language provides additional clarity to fulfill public education and outreach requirements, including language requiring targeted messaging to specific audiences about associated pollutants. 4. Multiple efforts within the same strategy should be counted as discrete individual outreach efforts. The program must meet the minimum requirements to send a variety of messages through the use of different types of outreach to a range of audiences. More than one outreach strategy must be used to meet program requirements; a single strategy, such as bus benches, does not meet these requirements.
Southeast Metro Stormwater Authority (SEMSWA)	Feasibility of Division's Concepts: The proposed approach of a weighted or ranked table of activities allows for a 'check off of compliance'. This approach may lead to a tendency to do the items that are not resource intensive and are the cheapest to accomplish, instead of activities that might be the most meaningful for an educational effort tailored to an MS4. In any case, SEMSWA has established routine annual activities that we feel are a good approach and that in all probability can continue under the proposed concept. WQ Outcome of Concept: If the goal of Public Outreach is to change behavior, it has not proven to be attainable. It would take a long-term national or state wide effort to really affect change in people's behavior; this is too much for a local government to pull off. SEMSWA's focus on outreach will be specific to the behavior changes associated with Illicit Discharge, Detection and Elimination, Construction Sites and Post Construction. If the intention is related to a positive water quality outcome, SEMSWA is not sure the proposal meets the mark; the outcome appears to be more closely related to making the program auditable. Costs: We budget about $25,000 for education and outreach in the form of brochures printing and mailings, targeted letters, Fact Sheets, booth rentals, give-a-ways, and the like. This does not include staff time – which sometimes for education and outreach efforts includes staff from all of SEMSWA's program areas - but does include some contracted staff and resources. In addition to the $25,000, we pool $2,000 in SEMSWA funds with SPLASH, an Arapahoe County member organization of MS4s; and heavily support the Cherry Creek Stewardship Partners, an organization who conducts outreach for MS4s in the entire Front Range area, with member dues and targeted activity funding to the tune of $10,000+. This approach allows for a more regional perspective that, we believe, lends itself towards more meaningful public education. We do not think that additional funds will result in a more meaningful water quality concept, and are therefore not willing to put more money towards this effort. Practice-based Effluent Limit: 1. A table of activities to choose from that constitutes an educational approach Alternatives: None, although we think this should be a component under each MCM and not necessarily its own MCM. SEMSWA focuses outreach on things that impact the different MCMs efforts, and relate it to the implementation of our MCM 3, 4 and 5 efforts for citizens and businesses. We like focused efforts and outreach activities that relate to SEMSWA's mission, from managing the floodplain riparian areas to curbside pick-up of hazardous household waste. We don't see much opportunity for 'behavior change' benefit from a booth at a Fair, but it is a way for regional partners to contribute to the overall effort and support each other, so we continue to do that. Our own personal fulfillment is connecting kids, students, citizens and businesses to their drainageway, and we

	do this through tours, ecological assessments, teacher training on Project WET, Cherry Creek's Run for the Watershed race, drainageway signage, and the like. Whether it changes behavior or not is beyond what we are willing to pay for to verify. Recommendation for Permit A table of activities may be the best approach until a national or state-wide campaign can take over this MCM. It's more important to us that an inspector give a Fact Sheet to a homeowner who has landscape material that may be a potential discharge, and if 'Fact Sheet' is listed on the table, then the Division's and SEMSWA's goals are a match. We feel we are doing our job educating our citizens through communicating with them in a personal way when possible, always striving to connect them to their storm drainage system and the role they play in protecting water quality. We are confident that there will be items on the table that will meet our goal, and if not, we will make that comment when we see the draft permit.
Douglas County	Douglas County has monitored the use of the County's website to obtain information related to the stormwater program. Historically we have had limited public use of the stormwater website. The County believes the requirements currently being discussed for mandatory content of the website would be of minimum benefit based on current usage. Douglas County believes that the table listing activities for public education needs to allow flexibility of activities not outlined on the list but meet the intent of the requirements.

IV. Illicit Discharge, Detection and Elimination Part I.B.3

Stakeholder	**Input**
Colorado Stormwater Council	Outfall Map Maintain a current storm sewer system map, showing the location of all municipal storm sewer outfalls and the names and location of all state waters that receive discharges from those outfalls. Regulatory Mechanism a. To the extent allowable under State or local law, effectively prohibit, through ordinance or other regulatory mechanism, illicit discharges into the storm sewer system. b. To the extent allowable under State or local law, maintain authority for escalating enforcement tools, through ordinance or other regulatory mechanism. c. The regulatory mechanism must clearly indicate that an illicit discharge is a violation subject to enforcement upon identification, until corrected. d. Any exclusions, exemptions, waivers and variances to the regulatory mechanism must be accompanied by documentation to clarify how exclusions, exemptions, waivers and variances will be applied in a manner that maintains compliance with the permit. IDDE Plan a. Develop, implement, and document a plan to detect and address non-stormwater discharges, including illicit discharges and

	illegal dumping, to the system. The plan must include: 1. Procedures for locating priority areas likely to have illicit discharges, including areas with higher likelihood of illicit connections; 2. Procedures or criteria to determine how to respond to illicit discharges; 3. Procedures for tracing the source of an illicit discharge, including specific techniques used to detect the location of the source; 4. Procedures for eliminating the source of the illicit discharge, including enforcement tools that allow for enforcement escalation if the discharge is not eliminated; and 5. Procedures to document the elimination of identified illicit discharges and incident resolution. b. Permittees shall track and maintain records of the activities conducted, in accordance with the IDDE plan to meet the requirements of this section. Non-stormwater Discharges Address the following categories of non-stormwater discharges or flows (i.e., illicit discharges) only if the permittee identifies them as significant contributors of pollutants to the permittee's MS4: water line flushing, irrigation return flow, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, water incidental to street sweeping (including associated sidewalks and medians) and that is not associated with construction, dye testing, deicing and anti-icing, and agricultural runoff not associated with construction. Occasional, Incidental Non-stormwater Discharges The permittee may also develop a list of occasional incidental non-stormwater discharges similar to those in the above paragraph, (e.g., non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non-stormwater discharges must not be reasonably expected (based on information available to the permittee) to be significant sources of pollutants to the MS4, because of either the nature of the discharges or conditions the permittee has established for allowing these discharges to the MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive waterbodies, BMPs, etc.). The permittee must document in their program any local controls or conditions placed on the discharges. The permittee must include a provision prohibiting any individual non-stormwater discharge that is determined to be contributing significant amounts of pollutants to the MS4. The Division reserves the right to request documentation or further study of a particular non-stormwater discharge of concern, to require a reasonable basis for allowing the non-stormwater discharge and excluding the discharge from the permittee’s program, and to require inclusion of the discharge in the permittee’s program, if water quality concerns cannot otherwise reasonably satisfied. Training Develop and implement a program to train municipal staff to recognize and appropriately respond to illicit discharges observed during typical duties. The program must address who will be likely to make such observations and therefore receive training, and how staff will report observed suspected illicit discharges

	Rationale 3. Each permittee has unique situations and priority pollutants that need to be addressed for illicit discharges as well as available enforcement actions. Typically an illicit discharge is a one-time improper discharge incident that does not need escalated enforcement to be resolved. The permit language must allow flexibility, rather than prescriptive language, for permittees to utilize their limited resources in a manner that addresses illicit discharges to best protect water quality within their jurisdiction. 4. The Division's Low Risk Discharge Policy should not be included in the permit language discussion. This is a policy that is not supported by regulation and therefore should not be included in the permit. 5. The current permit language regarding occasional incidental discharges should not be removed because it provides permittees the necessary flexibility to customize their program to specific and largely unforeseen issues. The current permit language regarding occasional incidental discharges is sufficient. 6. Allowed discharges should also include dye testing, deicing and anti-icing, and agricultural runoff because they are exempt by federal and state regulations.
Keep it Clean Partnership Coordinator	Outfall Map The Permittee must maintain a current storm sewer system map showing the location of all MS4 storm sewer outfalls and the names and location of all state waters that receive discharges from those outfalls. Regulatory Mechanism 1. To the extent allowable under State or local law, the Permittee must effectively prohibit, through ordinance or other regulatory mechanism, illicit discharges into the storm sewer system. 2. To the extent allowable under State or local law, the Permittee must have the authority, through ordinance or other regulatory mechanism, to take appropriate enforcement actions, including the ability to escalate enforcement as necessary to address violations. 3. The Permittee's regulatory mechanism must clearly indicate that an illicit discharge is a violation subject to enforcement upon identification until corrected. 4. Any exclusions, exemptions, waivers, and variances that may be present in the regulatory mechanism or program documentation must be accompanied by additional documentation to clarify how such exclusions, exemptions, waivers, and variances will not result in non-compliance with the permit. IDDE Plan The Permittee must develop, document, and follow a plan to detect and address non-stormwater discharges, including illicit discharges and illegal dumping, to the system. The plan must include: 6. Procedures for locating priority areas likely to have illicit discharges, including areas with higher likelihood of illicit connections. 7. Procedures or criteria to determine and select appropriate response(s) to illicit discharges found by or reported to the Permittee. 8. Procedures for tracing the source of an illicit discharge, including the specific techniques that will be used to detect the location of the source. 9. Procedures, including enforcement actions, for eliminating the source of the illicit discharge.

10. Procedures to document the elimination of identified illicit discharges, including enforcement actions and other steps taken by the Permittee.

Permittees shall track and maintain records of the activities conducted in accordance with the IDDE plan to meet the requirements of this section. The tracking procedures for illicit discharges must include:

1. Date of report.
2. Name of person investigating.
3. Location of discharge.
4. Suspected substance discharged.
5. Actions taken to show illicit discharges have been investigated.
6. Documentation when an illicit discharge file is considered closed.

Non-stormwater and Occasional Incidental Non-stormwater Discharges

The Permittee shall address the following categories of non-stormwater discharges or flows (i.e., illicit discharges) only if the Permittee identifies them as significant contributors of pollutants to the Permittee's MS4:

- Water line flushing
- Irrigation return flow
- Landscape irrigation
- Diverted stream flows
- Rising groundwaters
- Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20))
- Uncontaminated pumped groundwater
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensation
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains
- Lawn watering
- Individual residential car washing
- Flows from riparian habitats and wetlands
- De-chlorinated swimming pool discharges
- Water incidental to street sweeping (including associated sidewalks and medians) that is not associated with construction
- Use of non-toxic dyes used for dye testing to track pollutant sources, verify discharge locations, determine stream flow and dilution, and other similar purposes
- Runoff containing deicing and anti-icing chemicals
- Return flows from irrigated agriculture
- Emergency fire fighting discharges
- CDPS permitted discharges
- NPDES permitted discharges

The Permittee may also develop a list of occasional incidental non-stormwater discharges similar to those in the above paragraph that are not considered to be illicit discharges. These non-stormwater discharges must not be reasonably expected (based on information available to the Permittee) to be significant sources of pollutants to the MS4 because of either the nature of the discharges or conditions the Permittee has established for allowing these discharges to the MS4. The Permittee must document in its program any local controls or conditions placed on the discharges. The Permittee must include a provision in the regulatory mechanism prohibiting any individual non-stormwater discharge that is determined to be contributing significant amounts of pollutants to the MS4.

1. The Permittee must document the following information for all allowable occasional incidental discharges:
    a. The pollution source.
    b. A description of how the pollutant will have minimal impact to water quality impact due to the type of pollutant and/or quantity of the pollutant.
    c. If necessary, controls that must be implemented to adequately address the pollutant.
2. The Division reserves the right to request documentation or further study of a particular non-stormwater discharge of concern, to establish a reasonable basis for allowing the non-stormwater discharge to be excluded from the Permittee's program, or to require inclusion of the discharge in the Permittee's program.

MCM 3 Rationale

1. The suggested language allows flexibility for Permittees to allocate their resources in the most appropriate manner to address illicit discharges and protect water quality within their jurisdictions.
2. Illicit discharges are typically one-time incidents that can be resolved without resorting to escalated enforcement. The suggested language requires the Permittee to have the ability to use escalated enforcement for situations that warrant it but does not burden Permittees with administrative tasks that would result from unnecessary enforcement.
3. The suggested language clarifies the issues identified in the 2012 Targeted Permit Questionnaire without adding prescriptive requirements.
4. Allowed discharges should also include dye testing, deicing and anti-icing, and agricultural runoff because they are exempt by federal and state regulations.
5. The regulatory mechanism must clearly indicate (not state) that IDDE is a violation and is subject to enforcement upon identification until corrected.
6. It is not necessary to require a centralized database. Instead, the Permittee only needs to have the necessary documentation to show illicit discharges have been properly investigated and responded to.
7. Regulation 65 states, "Where the responsible party for a discharge can demonstrate to the Division that a discharge to a storm sewer system is contained within and removed from the storm sewer system without reaching state waters, as defined at Section 25-8-103(19), C.R.S., no violation will be found to exist." The regulation goes on to state under the "Statement of Basis, Specific Regulatory Authority and Purpose" that the Commission created a new Section 65.2(4) to ". . . provide an opportunity for a person responsible for a discharge to demonstrate that the discharge did not reach state waters and that the pollutants were removed from the storm sewer such that there would be no risk of a subsequent flow event flushing them into state waters. This could be accomplished by cleaning of the storm sewer system to prevent later transmission of the spilled materials to waters of the state. The Commission finds this is appropriate, particularly for spills which may be of relatively short duration and of small volume. Colorado has a semi-arid climate, in which stormwater channels may be dry for significant portions of the year and stormwater systems are composed of impervious pipes and basins and present numerous opportunities to capture and detain

	spills, including curbside catch basins, detention basins, and flow diversion structures." Requiring the same level of documentation for responding to something like a pile of landscaping materials in the right-of-way may be a disincentive for communities because of the extra non-productive administrative work required and could result in field workers turning a blind eye to something we currently would address.
Aurora Water Department	Slide 23 refers to pollutants of concern. This isn't a term that is familiar to us. What does it mean and who makes the determination that a pollutant is "of concern"?Slide 25 states that the permit lacks clarity on what must be in an IDDE plan. We strongly support retaining the current level of flexibility for permittees and relying on guidance language. We do not support making changes to the permit to be more prescriptive. Slide 26 relates to the current process for permittees adding additional allowable discharges. Please explain what procedure the Division is currently using to make the determination to approve those discharges.
Southeast Metro Stormwater Authority (SEMSWA)	Feasibility of Division's Concepts: Reported IDDE incidents can vary so widely, from a pile of landscape material in a residential street, to a carpet cleaning firm discharging fluids into the flow line, to an abandoned leaking drum 5 feet from an inlet. This variability requires extreme flexibility for a program to account for an appropriate response for the level of threat to water quality. There may be several agencies, stakeholders, and interested parties that need to be coordinated, or conversely it may reflect a 'teaching moment' approach between the permittee and the discharger. In this regard, what we'd request from the Division is not the IDDE plan becoming a prescriptive part of the permit, but more flexibility for an MS4 to devote resources where they are needed. From all the discussions we have had on MCM's, this one is acknowledged as the one that works the best, perhaps in part due to the EPA IDDE Manual template, in addition to the known risk an illicit discharge poses to our system. However, we should make it clear that we are not first responders and we are not hazardous material specialists. We will trace, detect and eliminate the IDDE incident from contention as a future illicit discharge, but we are not in a position to 'clean it up', especially something located in 'state waters'. Additionally, we welcome the State's assistance in assigning selected discharges to the Low Risk Policy category, and making this a dynamic process where new discharges can be added based on a collaborative discussion of 'what is a significant contributor of pollutants'. WQ Outcome of Concept: IDDE incidents in the Right-of-Way have the highest possibility of a direct discharge to the storm sewer system. Monitoring outfalls also provides a direct link to detecting potential non-stormwater discharges. For this reason, it is a critical MCM for protection of water quality within an MS4. This program is working because it needs to be dealt with immediately and without the usual government processes getting in the way. We ask the Division to continue to support the immediacy of the program and limit unnecessary processes. An Ordinance is not directly 'protective of water quality'; it just allows the elevation of the problem if necessary for a mitigation scenario and provides enforcement tools. Ordinances can be made more robust or 'corrected' outside of this permit renewal process. The real protection of water quality comes from our utilization of a Manual guidance document that allows us maximum flexibility. Costs: We budget about $65,000 for this program; $10,000 for mitigation services if required, and $55,000 for funding the household hazardous waste collection program. This does not include staff time, but does include some contracted staff and resources. All field staff are tasked with IDDE identification, while one inspector and one office staff provide the majority of investigation, coordination and elimination efforts. In addition to the $65k in budget line items, we have funds allocated to develop and print Fact Sheets, targeted letters and other IDDE outreach efforts that take advantage of the more common IDDE incidences as 'teachable moments'

	with educational efforts. We do not believe additional funds will result in an increased water quality outcome Practice-based Effluent Limit: 1. Clear, concise language for Division requirements of an IDDE Manual in terms of tracing an illicit discharge. 2. Clear, concise language for Division requirements of an IDDE Manual in terms of recordkeeping for illicit discharge events. 3. If our ability to come up with our own lists is removed from the permit, we need an annual opportunity for additions to the Division's Low Risk Policy discharges, with clear language for submitting request, including scientific studies, anecdotal evidence, and references from other state permits. 4. Annual Report signature specific to the implementation of the IDDE Manual the MS4 establishes for MCM 3 Alternatives: No changes in MCM 3, beyond some clarifying language of what needs to be in the IDDE Manual and in the Ordinance, and clarifications of how the Division's Low Risk Policy needs to be used for insignificant discharges. We believe in an MS4's ability to come up with its own list of insignificant discharges; it allows us to fine-tune our resources and efforts towards this program, but understand that having a discharge in one MS4 being permitted and not in another could be problematic. However, that behooves the Division to be more responsive to additions to the Low Risk Policy guidance. Recommendation for Permit 1. Leave IDDE Manual as guidance for a process within in our control to maximize our efforts, and not include it as a prescriptive process in the Permit. Feel free to include a list of things that you feel need to be more robust in our IDDE Manual. Identify those few MS4s that are not applying the protocols of a good IDDE Plan and let the rest of us continue with our successful programs. 2. Assist us to use the Low Risk classification to the maximum extent possible so that we can spend our time on the real illicit discharge that need out efforts. 3. Make the Annual Report a meaningful certification. Make the signature that the Legal Contact provides be tied to the actual implementation of the Program area.
EPA	Portions of the permit that allow for non-stormwater discharges beyond what is called out in 40 CFR 122.26 (see below) should be eliminated. MS4s should adhere to the strict definition of allowable definitions in the permit, derived from federal regulations. Other non-stormwater discharges should be addressed through Division permits or policies such as the low risk discharge policy. More clarity should be provided in how MS4s must address illicit discharges. Specifically, testing, follow-up and either eliminating the illicit discharge or characterizing the illicit discharge as not causing or contributing significant pollutants to waters of the state is appropriate. Example language from the Denver Federal Center MS4 permit follows: **2.2** Illicit Discharge Detection and Elimination. An illicit discharge is any discharge to a MS4 that is not composed entirely of stormwater. Exceptions are described in Part 1.3.2. The permittee must: 2.2.1 Implement a program to detect and eliminate illicit discharges into its MS4. The program shall include procedures for

		detection, identification of sources, and removal of non-stormwater discharges from the storm sewer system. This program shall address illegal dumping into the storm sewer system, and include training for staff on how to respond to reports of illicit discharges;
	2.2.2	Effectively prohibit, through ordinance or other regulatory mechanism available under the legal authorities of the MS4, non-stormwater discharges into the storm sewer system and implement appropriate enforcement procedures and actions;
	2.2.3	Provide a mechanism for reporting of illicit discharges and provide this number on any outreach materials as appropriate;
	2.2.4	Provide emergency spill contact information to all building managers, project managers, and the appropriate tenant single point of contact;
	2.2.5	Investigate any illicit discharge within fifteen (15) days of its detection, and take action to eliminate the source of the discharge within forty five (45) days of its detection (or obtain permission from EPA for such longer periods as may be necessary in particular instances);
	2.2.6	Maintain an information system which tracks dry weather screening efforts, illicit discharge reports, and the location and any remediation efforts to address identified illicit discharges;
	2.2.7	Conduct dry weather screening annually at each of the major outfalls for the presence of non-stormwater discharges and to determine if there are significant erosion issues which need to be addressed. If an illicit discharge is detected, an assessment of that discharge shall be made. For example, sampling could include field tests of selected chemical parameters as indicators of discharge sources where dry weather flows are detected. Screening level tests may utilize less expensive "field test kits" using test methods not approved by EPA under 40 CFR Part 136, provided the manufacturer's published detection ranges are adequate for the illicit discharge detection purposes;
	2.2.8	Address the categories of non-stormwater discharges or flows listed in Part 1.3.2 and require local controls or conditions on these discharges as necessary to ensure that they are not significant contributors of pollutants to the small MS4. If the permittee identifies any of these non-stormwater discharges as a significant contributor of pollutants, the permittee must include the category as an illicit discharge and implement a plan of action to minimize or eliminate the illicit discharge as soon as practicable; and
	2.2.9	Update the complete storm sewer system map in the Denver Federal Center GIS prior to the end of year three of the permit.
	2.2.10	The annual report (See Part 3.3) must document the following information related to illicit discharge detection and elimination:
	2.2.10.1	A description of the program used to detect and eliminate illicit discharges into the MS4; including procedures for

	detection, identification of sources, and removal of non-stormwater discharges from the storm sewer system; 2.2.10.2 A description of the location and method of dry weather screening performed; 2.2.10.3 A description of illicit discharges located and all actions taken to eliminate sources of illicit discharges; 2.2.10.4 A description of training materials used and the frequency at which training was provided to the target audience(s) on how to respond to reports of illicit discharges; 2.2.10.5 A description or citation of the established ordinance or other regulatory mechanism used to prohibit illicit discharges into the MS4; 2.2.10.6 A copy or excerpt from the information management system used to track illicit discharges; and 2.2.10.7 A description of the categories of non-stormwater discharges evaluated as potentially being significant contributors of pollutants to the MS4 and any local controls placed on these discharges. Code of Federal Regulations (CFR) Requirements for illicit discharges: • 40 CFR 122.26 (a)(vi)(9)(D)(iii)(b)(2) states that: "Illicit discharge means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities." • 40 CFR 122.26 (d)(1)(iv)(B)(1) states that: "(1) A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges, however the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the United States);"
Douglas County	The County believes that an expedited process is needed so that the Division can add items to the Low Risk Discharge List. The County believes that charity car washes should be allowed under the Low Risk Discharge List. If the division is unwilling or unable to add charity car washes to the low risk discharge list the County recommends that these car washes should be permitted by the Division through the CDPS permit process.

V. Construction Sites Program Part I.B.4

Stakeholder	Input
Metro Housing Coalition Home Builders Association of Metro Denver	Page 29, last bullet states, "No level of BMPs required at a construction site. Anything could be considered compliance e.g., requiring sweeping". If water is not impacted (such as a site in the middle of Weld County for example), then why have BMP's if they are not applicable? We don't understand this concept when if there are no receiving waters that this would address. Again the need for and level of BMP s should be left up to the municipality responsible for meeting their permit, since they understand their local requirements. 3. Page 30, third bulleted point states, "Permit audits and construction site screenings have indicated widespread issues with the construction sites program as evidenced by findings on audit reports and construction site screenings". By whom are these permit audits and construction site screenings done? By CDPHE? This is a broad statement and we would like to know which issues and which municipalities have been audited and where these indicated issues have occurred. We would like more details to justify this proposal for increasing enforcement because it seems broad and arbitrary as it is written. We would think that instead of blanketing the General Permit, allowing municipalities to specifically deal with the issue would be more transparent and would allow for specific data providing justification. This proposal takes away this present process. See our comments below regarding the next concept that ties into this concern: 4. Page 31 of the slide presentation, Item 1 under Concepts Discussed identified "A program that links inspection frequency to enforcement". Details of this concept stated, "Less frequent inspections paired with more rapid escalation to penalties vs. increased inspection frequency paired with reduced enforcement escalation". We do not understand what this means. Municipalities should be able to make their own enforcement level judgments on home builder sites coupled with flexibility on inspecting sites and be able to determine what level of issues or violations should result in escalation. This broad approach would tie up valuable resources at the municipalities when they would be put to better use focusing on those problem sites where water quality of the receiving waters could be impacted. Additionally, page 31, Item 2, "A program that links inspection frequency to the level of oversight and inspection documentation. Example: Monthly inspections require increased scope of oversight, required elements on an inspection form and website posting of violations, whereas increased inspection frequency include a decreased scope of oversight". We would like to know what constitutes a violation and we feel strongly that regular maintenance should not result in escalation of a potential violation.
Colorado Stormwater Council	Regulatory Mechanism: An ordinance or other regulatory mechanism to require installation and maintenance of erosion, sediment and waste control BMPs, as well as sanctions and procedures adequate to ensure compliance, to the extent allowable under State or local law. Compliance Assessment: Plan Review: a. The permittee must develop, implement, and document procedures for plan review to include erosion, and sediment control BMPs to address identified sources of pollutants through phases of construction. b. The permittee must document that review for erosion and sediment control was conducted and is consistent with the

permittee's procedures.

Site Inspection:

a. The permittee shall develop, implement, and document procedures for inspections on construction sites. The inspection procedures must:
   i. Define the types and frequencies of inspections used for oversight of applicable construction sites;
   ii. Describe how inspection types and frequencies are determined to provide adequate oversight to determine construction sites are in compliance with the permittee's construction site program;
   iii. Describe how each type of inspection is performed ; and
   iv. Describe how each type of inspection is documented
b. Appropriate staff, MS4 representative, or designee shall perform and document inspections in accordance with the inspection procedures.

Compliance Assurance:

Enforcement:

a. The permittee must develop, implement, and document enforcement procedures. The procedures must contain the following elements:
   1. Identification of types of authorized enforcement responses available; and
   2. Criteria for determining and selecting appropriate enforcement response for various types of non-compliance, including those subject to immediate and/or escalated enforcement action.

b. Based on inspection findings, take necessary follow-up actions, in accordance with the inspection and enforcement procedures to ensure compliance with the permittee's construction site program.

c. Appropriate staff, MS4 representative or designee shall perform and document enforcement actions in accordance with the enforcement procedures.
   1. Return to compliance must be documented for violations receiving escalated enforcement.

Education and Training:

a. The permittee must provide information for construction site operators unfamiliar with the reviewing authority's regulatory requirements.
b. Permittees must ensure that staff whose primary job duties are related to implementing the construction stormwater program are informed or trained to conduct these activities.
   i. The training record to be kept includes dates, activities or course descriptions, and name and position of staff in attendance.

Rationale

1. Each permittee has their own program and procedures for construction and this program area is probably the most diverse across permittees. Inspections and enforcement are intertwined in oversight of construction projects. Each permittee has different and varying levels of focus from compliance assistance that may entail more frequent inspections to a heavier reliance

	on enforcement. The permit requirements must allow flexibility for each MS4 to determine how inspections and enforcement will be implemented to successfully respond to oversight of construction sites within their community, specific to their programs and procedures. 2. The permit must allow the use of non-structural BMPs for controlling runoff from construction sites. They can be just as effective, if not more, in preventing stormwater pollution and in many cases where structural BMPs are infeasible or impracticable, non-structural BMPs can be implemented successfully. 3. Be careful about using the term "site plan review" as it typically refers to a very specific process for municipalities. To provide clarification, "plan review" has been used here. 4. The current program requirements to require sediment and erosion control BMPs, and requirements for waste control appear to be clear and adequate, therefore, no changes are suggested. 5. The permit fact sheet must acknowledge there are many factors that may be considered when determining inspections (frequency and scope) and enforcement. The permit must enable flexibility for MS4s in determining criteria for prioritizing inspections and taking enforcement action. These may include: soil erosion potential, slope, extent of disturbance, project size & type, potential for water quality impacts, sensitivity of receiving water bodies, proximity to receiving water bodies, seasonal conditions, construction schedules, past record of non-compliance, seriousness of the violation, diligence of the operator to fix violations, willfulness of operator in violating requirements, economic benefit to the operator, and other site-specific concerns.
Golden	Structural sediment entrapment BMP This is another area where Golden is concerned that the Division may propose a prescriptive permit condition and eliminate effective, efficient alternatives. The city agrees with the Division on the intent of requiring a sediment entrapment BMP for disturbed areas as applicable under the requirements of the permit. However, the city is concerned of the potential to narrowly define a structural sediment entrapment BMP and believes that BMPs such as scheduling, phasing, grading techniques, vegetative buffers, etc. can be highly effective and cause less disturbance when carefully considered and utilized. Options for effective pollutant control should not be limited. The permit needs to maintain the flexibility to allow MS4s to implement the best solutions in individual circumstances.
Keep it Clean Partnership	The Permittee must develop, implement, document, and enforce a program to reduce pollutants in stormwater runoff to the MS4 from construction activities that result in a land disturbance of one or more acres and to reduce pollutants in non-stormwater discharges from construction sites that have the potential to result in water quality impacts (e.g., construction dewatering, wash water, etc.), or prevent such discharges when required in accordance with I.B.3. Reduction of pollutants in discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one or more acres, regardless of the financial status or ownership of the development or the individual. If the Division waives requirements for stormwater discharges associated with a small construction activity in accordance with Regulation 61.3(2)(f)(ii)(B) (the "R-Factor" waiver), the Permittee is not required to develop, implement, and/ or enforce its Construction Sites program to reduce pollutant discharges from such a site. The Permittee's program must contain, as a minimum, the following procedures, program requirements, and other provisions to assure adequate design, implementation, and maintenance of BMPs at construction sites within the MS4 to reduce pollutant

discharges and protect water quality. The Permittee is required to implement and follow the procedures, requirements, and other provisions of the program.

Regulatory Mechanism
The Permittee must have an ordinance or other regulatory mechanism to require the use of erosion, sediment, and waste control BMPs and any associated maintenance, as well as sanctions and procedures adequate to ensure compliance, to the extent allowable under State or local law.

Plan Review
The Permittee must develop, document, and follow procedures for plan review and acceptance to ensure pollution sources from construction sites are controlled through the use of BMPs that address erosion, sediment control, and construction wastes in all phases of construction. The procedures shall include criteria for reviewing pollution control BMPs and methods for documenting that the reviews were completed and review findings communicated in accordance with the Permittee's procedures.

Site Inspection

1. The Permittee shall develop, document and follow procedures for inspections on construction sites. The inspection procedures must:
    a. Define the types of inspections used for oversight of the construction sites.
    b. Describe how inspection types and frequencies ensure that construction sites are in compliance with the Permittee's construction program.
    c. Contain the following minimum inspection frequencies:
        i. One inspection during each calendar month for at least 80% of the active construction sites in the Permittee's jurisdiction.
        ii. Quarterly inspections of all inactive sites that are pending final stabilization or in a condition of dormant/seasonal shut down where no construction activities are occurring.
    d. Describe how each type of inspection is performed
    e. Describe how inspections will assess and respond to compliance with the program's construction stormwater requirements, including:
        i. Criteria for re-inspection, including types of non-compliance that trigger re-inspection and time frames for re-inspection.
        ii. A description of what constitutes major non-compliance.
        iii. A description of minor non-compliance that can be immediately addressed through one-time routine maintenance or corrective action.
        iv. A description of follow-up actions to address of non-compliance, including the following types of non-compliance as a minimum:
            1. Discharges containing pollutants leaving the site.
            2. Inadequate or incorrect implementation or maintenance of pollution control measures.
            3. Continuing deficiencies in routine maintenance identified in previous inspections.
        v. A description of what actions will be taken to address deficiencies in routine maintenance.
    f. Describe how each type of inspection is documented. Documentation must include:
        i. Date of the inspection.

	ii. Indication of the inspector. iii. Construction project identification (name, permit, or location). iv. Documentation of any discharge of pollutants off-site. v. Indication if follow-up actions are required (as per the Permittee's Program, e.g. follow-up inspection or enforcement). 2. The Permittee's staff or the Permittee's authorized representative or designee shall perform and document inspections in accordance with the inspection procedures. 3. The Permittee shall take all necessary follow-up actions for non-compliance identified during inspections, in accordance with the Permittee's inspection and enforcement procedures, to ensure compliance. Enforcement 1. The Permittee must develop, implement, document, and follow enforcement procedures. The procedures must contain the following elements: a. Identification of types of authorized enforcement responses available. b. Identification of criteria for determining types of violations that may be subject to immediate and/or escalated enforcement action. c. Criteria for determining and selecting appropriate enforcement response for various types of non-compliance. d. Enforcement process for addressing violations. e. Documentation of enforcement actions and responses. 2. The Permittee shall take all necessary follow-up actions for violations identified during inspections, in accordance with the Permittee's inspection and enforcement procedures, to ensure compliance with the MS4 permit. 3. The Permittee or the Permittee's authorized representative or designee shall perform and document enforcement actions in accordance with the enforcement procedures. a. The Permittee shall document events involving escalated enforcement actions and indicate resolution. Education and Training 1. The Permittee must provide information on the Permittee's construction stormwater requirements to construction site operators unfamiliar with the reviewing authority's regulatory requirements. 2. Permittees shall ensure that appropriate staff are properly informed or trained to conduct these activities. a. A record of training shall be kept that includes dates, activities, or course descriptions, and the names and positions of staff in attendance. MCM 4 Rationale 1. Each Permittee has its own program and procedures for construction, and this program area is probably the most diverse across Permittees. Inspections and enforcement are intertwined in oversight of construction projects. Each Permittee has different and varying ways to achieve compliance, from assistance to formal enforcement. The former may require more frequent inspections, and the latter may require adherence to the legal provisions of the enforcement plan. The permit requirements must allow flexibility for each MS4 to determine how both inspections and enforcement will be implemented to successfully respond to compliance issues and provide adequate oversight of construction sites within our community-specific programs and procedures. 2. Standardized enforcement actions do not allow the necessary flexibility that a permittee needs to ensure compliance. It does not make sense to have the same requirements for programs that are operating under different legal or regulatory conditions or

	constraints, not to mention legal authority for different enforcement tools. Although there are common features that all inspection procedures should contain, such as determination of non-compliance, follow-up for specific situations, and documentation, the permit only should require the inclusion of those minimum provisions in the Permittee's procedures and that the Permittee follow the procedures. 3. The minimum documentation that could be required and also be appropriate for the various programs (many of which are successfully implementing the construction requirements) is discharge of pollutants off-site. Full perimeter verification for large (or long) construction sites can be very time-consuming and may not be needed on a monthly basis; it is dependent on the specifics within the Permittee's program and therefore must be determined by the Permittee. For example, if there are inspectors on-site daily, full perimeter inspection is not needed to provide adequate oversight. However, if oversight is only conducted during the monthly inspections, perimeters or full inspections may be needed. The common point in all the programs, as well as the greatest protection of water quality, is the discharge of pollutants off-site. 4. Requiring documentation for actual discharges off-site is appropriate. Threatened discharges need to be addressed through the Permittee's program but should not be required to have specific documentation. The Permittee needs to determine what best fits its specific situation and stormwater program. 5. Inspections should document if there is follow-up needed, not if the site is in compliance. If Permittees are using compliance assistance, there may be times when the site has a minor issue not requiring follow-up, and stating that the site is in compliance would indicate no action needs to be taken. 6. If the permit is to require a minimum inspection frequency, it should be each calendar month, instead of 30 days for flexibility and ease of implementation. Calendar month is easy to track and implement. Thirty days from the last inspection is more complicated and could lead to violations of this permit condition by miscalculating the 30 days. 7. It is not necessary to have the inspector sign a form for every inspection as long as the inspection record clearly indicates who performed the inspection. 8. The permit must allow the use of non-structural BMPs for controlling runoff from construction sites. They can be just as effective, if not more, in preventing stormwater pollution, and in many cases where structural BMPs are infeasible or impracticable, non-structural BMPs can be implemented. Requiring structural BMPs may discourage use of non-structural BMPs. If this is still a concern, it should be put into the state general permit rather than the MS4 general permit. Structural BMPs should not be prescribed for all disturbed areas. If they are, there will need to be more exemptions. Some examples are small construction sites with no room for structural BMPs or a trail through a large vegetated open space that will not have any disturbed areas after installation, and a structural BMP would create more disturbed area than a non-structural BMP. The construction program needs to ensure that pollution sources are controlled through the use of adequate BMPs, structural and non-structural. This needs to be implemented and verified by the Permittee. If there are sites where disturbed soil is not controlled through BMPs, or where the BMPs are inadequate, they should be treated as a violation of the MS4 permit, as they are currently. 9. Compliance assistance is not the same as enforcement. Compliance assistance should be described in the inspection procedures, not the enforcement procedures. Therefore, follow-up based on compliance assistance should be included in the inspection procedures. 10. Review of a plan does not actually protect water quality in itself; it shows thought has been put into controlling pollution sources. Modifications to the construction section of the permit should focus on the inspection and enforcement, not plan review. Many times the plan is prepared by consultants, but the construction site operator is the one that implements the BMPs, and as soon as construction begins, the BMPs, locations and phasing change.

	11. BMP details do not need to be submitted for plan review as long as they are referenced to a design standard. 12. "Site plan review" typically refers to a very specific development review process for many MS4s and should not be used in the permit language. 13. The current program requirement requiring sediment and erosion control BMPs and waste control appear to be clear and adequate. 14. There are many factors that Permittees should be allowed to consider when determining inspection and enforcement priorities. These may include: soil erosion potential, site slope, extent of disturbance, project size and type, potential for water quality impacts, sensitivity of receiving water bodies, proximity to receiving water bodies, weather conditions, construction schedules, non-stormwater discharges, past record of non-compliance, seriousness of the violation, diligence of the operator to fix violations, willfulness of operator in violating requirements, economic benefit to the operator, and other site-specific concerns.
Aurora Water Department	Slide 29 states that the current permit does not require any specific level of BMPs at a construction site and states as an example that sweeping could be considered an effective BMP. We agree that sweeping is an effective BMP and are uncertain what the Division sees as the problem that requires "clear requirements" to correct. Construction sites vary in size, topography, complexity, and any number of other factors. We believe the current requirements are clear and allow permittees the flexibility to determine what is appropriate for each site individually.
Xcel Energy	Xcel Energy encourages the Division to keep from prescribing what specific erosion, sediment and waste control BMPs have to be used in a permit (regulatory mechanism). The "one size fits all" approach to controlling pollutant sources on construction sites is flawed in concept because conditions and site specific contraints vary greatly from one project to another. Xcel Energy recommends keeping this language flexible. We believe it is reasonable for the permit to specify that erosion, sediment and waste controls be used on permitted projects, when needed; however, the selection of BMPs to provide these types of controls should be selected by the Engineer based on project-specific conditions. Requiring a BMP to be used for **every** source of pollutant on a construction site is not practical or reasonable. In some situations Xcel Energy has found that our disturbance is in the middle of an agricultural or dirt field. The requirement to have Xcel Energy install a sediment control measure around our disturbance in an existing dirt/tilled field does not improve water quality. In these types of rural settings, when Xcel Energy has minimal disturbances along long linear distances that are caused primarily by accessing the area, Xcel Energy uses good engineering practices and selects appropriate BMPs for the topography, disturbance, duration of the disturbance, vegetation, and proximity to waterways. These BMPs do not always include sediment control BMPs in all in cases or for all phases. In urban settings, Xcel Energy frequently excavates bore pits, manholes, and trenches using the excavation as one of BMPs when the spoils are loaded into dump trucks as they are excavated and hauled offsite. Requiring sediment perimeter controls around excavations may interfere with the work area when there is no justification for using a perimeter BMP specifically around the excavation. In the EPA Construction General Permit, language such as "to the maximum extent practicable" and "where feasible" have been added due to the fact that using the term "all" does not account for various types of situations encountered in construction. Xcel Energy encourages the Division to keep from prescribing what specific types of BMPs have to be used on a construction project. Again, the "one size fits all" approach to controlling pollutant sources on construction sites is a flawed concept. We would recommend keeping this language flexible. It is one thing to require projects to use tracking control, but a project should be able to

	decide if that tracking control is a typical rock pad, mud mat or in some cases just sweeping. Xcel Energy quite often works only in paved areas. Our means of vehicle tracking control on paved areas is sweeping. Xcel Energy does not see a problem with MS4s reviewing and approving site plans if such a review and approval process does not already exist through the local government. To the extent that MS4 or local review requirements are written into the permit, we would caution the Division on how the language is written so that modifications can be made to the "living document" should field conditions warrant changing BMPs. This would result in the site plan not matching the original approved plans. Sites should be allowed to change the plans as necessary to respond to conditions in the field without the need for re-submittal and approval at the local and/or MS4 level. Again, in some situations a construction project may have disturbance in the middle of a agricultura/dirtl field. The expectation to have a sediment control measure for all disturbances seems unnecessary. Xcel Energy utilizes other BMPs besides sediment controls in these types of situations. Effective erosion control can minimize or eliminate the need for sediment controls. In general, erosion control practices are far more effective at limiting discharges of sediment to receiving waters than sediment control measures. Xcel Energy is concerned about the Division requiring MS4s to inspect sites at a set frequency. MS4 resources are limited. Some jurisdictions require pre-construction inspections before new construction can begin. By requiring all sites be inspected at a set frequency, Xcel is concerned if there would be enough MS4 resources to cover all bases. Due to the larger common plan of development permit requirements, Xcel Energy often permits hundreds of small utility jobs including those connecting into a larger development and utility relocations associated with commuter rails and highway projects (typically much less than an acre of disturbance). If each of these projects were to require frequent inspections, certain MS4s where these types of projects are densely located would need an inspector solely for utility work. Xcel Energy does not disagree with MS4 inspections, but we are concerned about our construction being delayed due to the lack of resources to carry out these inspections for dozens of small utility projects that occur within an MS4 within a given year. Xcel Energy would recommend MS4s identifying priority/sensitive areas, large construction sites and sites that have had complaints or demonstrated recurring problems and focus their inspection efforts on those projects at a higher inspection frequency and all other sites could be inspected at a lesser inspection frequency that the MS4 should determine based on the resources available to them.
Southeast Metro Stormwater Authority (SEMSWA)	Feasibility of Division's Concepts: SEMSWA manages construction sites with a Grading, Erosion and Sediment Control (GESC) Manual that has specific requirements for all core functions of the program, so the feasibility of the concept for SEMSWA is not an issue. However, management of this program area is very diverse across the spectrum of MS4s. There are too many jurisdiction-unique factors that may need to be considered during plan review and approvals, BMP selection, inspections, and enforcement. There appears to be no "one-size fits all' for this program. The Division needs to commit resources to identifying those MS4s whose level of effort for this program is not adequate to protect water quality through another avenue than the permit renewal process. It is not feasible. WQ Outcome of Concept: Runoff associated with land disturbance can be a direct threat to water quality. We consider a sediment or waste discharge from a site to be a high priority. We utilize a layered BMP system at the perimeter to control discharges, in addition to source controls and

	active site management. The voracity of our layered BMP approach is easy to verify during recon inspections and allows the contractor to work the site. Costs: We budget four inspection staff and one GESC Manager for this program and we want to steadily reduce this level of resource need. We average a large number of sites at any one time, and have to be very deliberate in determining inspection schedules that meet the intent of the GESC program. We have had the GESC process for 7 years now and the majority of contractors are familiar with the program requirements. We have switched to a compliance enforcement scenario, meaning less leeway for deficient sites, but do still offer short-term compliance assistance to a contractor if they have not been subjected to GESC requirements previously. Additionally, we have several contract resources to assist on an on-call basis. We do not feel additional resources would improve the effort for this program area. Practice-based Effluent Limit: 1. Clear concise language to clarify what the Division seeks in an SOP or Manual. 2. Submittal of SOP or Manual to Division for review that contains plan review and approvals process, including what documents reviewing, when review and resubmittal is required, approval process and signature requirements; BMP selection, including a matrix of when, where, how, why, and BMP details; inspections, including type, when, where, how often, priority selection, and exceptions; and enforcement, including a matric or flow chart of the steps taken to bring a site into compliance and verification of that compliance. 3. Annual Report signature specific to the implementation of the SOP or Manual the MS4 establishes for MCM 4. Alternatives: Do not use the permit renewal process to 'level the playing field' in terms of requiring, in the Permit, the specifics of how the MS4 is to manage this program area; let it continue to reside in the MS4's SOPs and Manuals. This requires the Division to review the Manuals and SOPs for adherence to the practices the Division wants to see during implementation. But, it allows the expected diversity in programs to continue specific to each jurisdiction's needs. Recommendation for Permit 4. Let the MS4 tie the scope and scale of implementation, oversight and enforcement to their own programs without specifying procedures, schedules, or BMP types listed in the permit. 5. Have MS4s submit their SOPs/Manual for Division review, using the Division concepts as starting points for topics to be addressed in Program SOPs and Manuals. 6. Commit resources to getting to know how each diverse MS4 manages this program. Perhaps in the next permit renewal there can then be an attempt to 'level the playing field'. 7. Make the Annual Report a meaningful certification. Make the signature that the Legal Contact provides be tied to the actual implementation of the Program area.
Wright Water Engineers, Inc.	General Construction Site Plan Elements– WQCD regulates stormwater discharges associated with construction activities under COR030000 for sites with an acre or more of disturbance or part of a common plan of development. Site elements required by

	Phase II MS4s as part of their General Permit should reference the existing CDPS General Permit COR030000 and not have additional requirements. We believe that any changes to the state requirements to the construction site plan elements should be vetted through the existing CDPS General Permit COR030000 and not added in the MS4 permit Phase II renewal. Consistency will not be maintained if Phase II MS4s have different requirements from Phase 1 MS4s or from CDPS General Permit COR030000. MS4s often add their own requirements in addition to the ones listed in the MS4 General Permits which is hard enough to track, adding various different requirements for different size communities will be even harder and more inconsistent. In particular, requiring sediment controls measures for all disturbed areas during all stages of construction should be vetted through the CDPS COR030000 renewal process. Generally construction activities do use sediment control measures; however, there are other BMPs that are effective and may not be considered sediment control BMPs such as using a trench as a BMP, seeding and installing ECB, runon controls, swales/berms, check dams, and grade controls. Erosion control BMPs are typically far more effective than sediment control BMPs because they minimize mobilization of sediments rather than trying to remove them once they have already been mobilized. Many of these BMPs are considered erosion and runoff controls and therefore under the conceptual language may not meet the requirements although we would strongly argue that they may be effective and meet the intent of the COR030000 General Permit. There are also some other cases generally associated with long linear projects such as trails, utility poles, and lines that use site factors such as topography, location (may be agricultural or in rural areas), duration of construction, presence of vegetative buffers, and distances to receiving waters, to determine BMPs. In some cases, it may cause more disturbance to trench in a structural BMP throughout the length of all disturbed areas especially if the disturbance is relatively minor and is caused primarily by an access route through the project. It is our belief that mandating sediment controls for every stage of construction could be interpreted to mean erosion BMPs and runoff control BMPs would not meet this requirement reducing the number of tools from the construction site tool box.
Douglas County	The County has found that it is difficult to show the majority of waste controls on a site plan due to mobility of these types of BMPs. The County believes that waste control requirements should be contained in code or criteria manuals and should be addressed on site plans as a standard set of notes. The County believes it will be logistically difficult to meet a 30 day mandatory requirement for the inspection of single-family projects. The County suggests a more flexible approach for the single family site inspections.
Colorado Contractors Association	Thanks for raising our issue. Did someone in the room say that other states have codified a process for dealing with this issue? Could you let me know who that was? Also, just to clarify, we think this issue is broader than just CDOT...for example, urban drainage projects involving multiple MS4s.

VI. Enforcement Response Procedures

Stakeholder	Input
Metro Housing Coalition Home Builders Association of Metro Denver	5. Page 36, fifth checked bullet point states, "The Permittee must escalate enforcement for sites with uncorrected violations". This again forces municipalities to be inflexible. They will not be able to determine the severity and frequency of the uncorrected violations. The word "must" should be changed so that municipalities can work well with builders. We believe escalating enforcement is not going to be the panacea to correcting problems. We believe education and local involvement will result in a higher level of compliance and protection of receiving waters. 6. Page 37, first checked bullet point states, "The Permittee must develop an enforcement response plan: The Division is looking for comment on the concept of developing a response plan to violation scenarios vs. a plan to return the site to compliance". Please know that we are all interested in supporting water quality, however, we don't support an enforcement response. Sites are all very different and one BMP does not fit all sites. Enforcement should be a municipal-level decision to protect water quality and not be dictated by the State. We don't see why this would be added to the General Permit. 7. Page 38, second checked bullet point states, "A requirement to address repeat and uncorrected violations". We agree with this point that REPEAT offenders should have some level of enforcement after all other options are exhausted. This is different from page 36 where it is automatic escalation enforcement without any kind of flexibility that may arise from extenuating circumstances that a municipality could address.
Wright Water Engineers, Inc.	Escalation Enforcement and Inspection Policy A. Based on our long history with working with permittees within Colorado, we do not support a state mandated policy without giving MS4s flexibility in their programs. We feel if there is a state mandated policy for escalation of enforcement, the MS4s will be forced to issue stop work orders when the field conditions may not warranted such action. For example, if you have a permittee that in general has a site that is typically in compliance and has a maintenance item during one inspection and then a month later has a different maintenance item, does that constitute a repetitive issue of non-compliance? This hypothetic question was posted during the May 6, 2013 meeting without input from WQCD on their position. B. A second concern we have with a state mandated policy is what constitute a violation. In our experience, we have observed routine maintenance items to be listed as violations by various regulatory personnel. Often permittees install a BMP treatment train so when the first line of BMPs needs maintenance there are redundant BMPs that will function to minimize the potential for sediment to move offsite. If the first line of BMPs needs maintenance is this a violation? In our experience, there have been inconsistencies across the state on what constitutes a violation. During the March 6, 2013 pre-public meeting there was discussion about linking a violation to the potential for adverse impacts to water quality. This could be considered or as in the EPA 2012 CGP there is some language differentiating violations, corrective actions and routine maintenance which might be incorporated into the CDPS General Permit. Violation should clearly be a part of the COR03000 General Permit and should be referenced in the other permits to provide consistency as opposed to MS4 inspectors following a different set of guidelines than the guidelines in the CDPS General Permit COR030000. C. A third concern we have with a standard state mandated policy on escalation enforcement as opposed to giving the MS4s some leeway on creating their own inspection/escalation program is how enforcement might need to be different on "Master" stormwater management plans. WWE has been involved in developing streamlined stormwater management plans (SWMPs)

	for entities that perform the same type of construction repetitively. These "Master" SWMPs have typically been developed for specific municipalities (eg. Denver, Aurora) and can cover many sites. WWE has worked closely with the jurisdictions on the concept and development of these plans. The "Master" SWMP contains all of the information that does not change with location such as general type of construction activities, potential pollution sources, material management, general BMPs that are utilized, spill prevention and plans etc. As each specific project is identified, it is added to the "Master" SWMP and contains site-specific information such as topography, vegetation, drainage, BMP site maps, timing/duration etc. If a state mandated escalation policy were developed and one or two of the sites under this type of "Master" permit had relatively minor violations, it could shut down operations for all of the projects covered under the Master plan when in general most sites have a strong record of compliance. WWE has developed these Master Plans for oil and gas well fields, utilities, and maintenance drainage operations with a great deal of success. D. We strongly support enforcement of the requirements of the construction programs. However, we feel strongly that MS4s should have flexibility in enforcement since they are in the field and are more familiar with the permittees and their sites. We do support WQCD offering more training and guidance documents for MS4s so that they are more consistent with the CDPS COR030000 General Permit and with each other.
Douglas County	The County believes that there needs to be flexibility with the enforcement response procedures to allow for random visitation to sites for more effective monitoring of construction. Many factors need to be considered during the inspection of construction sites including; history of contractor, weather impacts, maintenance of bmps, nature of the site, type of permit, nature of the violation, etc. These factors vary in their importance from project to project resulting in the need for flexibility in the enforcement response procedures.

VII. Post Construction Part I.B.5

Stakeholder	**Input**
Colorado Stormwater Council	Regulatory Mechanism: An ordinance or other regulatory mechanism to require treatment associated with runoff for applicable new development and redevelopment projects, to the extent allowable under State or local law. Redevelopment may be defined as sites that are Substantially Developed (or a site that is 35% or more impervious area) with the addition or creation of Impervious Area (including removal and replacement), to include the expansion of a building or replacement of a structure. Routine Maintenance or exterior/interior building remodeling is not included. Additional definitions can be provided upon request. Design Standard: 1) The Permittee shall develop, implement, and enforce a program to address storm water runoff for New Development projects that disturb greater than or equal to one acre, including projects that are less than one acre that are Part of a Larger Common Plan of Development or Sale, and ensure that Water Quality Capture Volume or Water Quality Capture Volume Equivalent structural controls are in place in order to prevent or minimize water quality impacts to the MS4 from the New Development project. New Development projects shall provide treatment for the added impervious area, with allowable variances and exceptions. 2) The Permittee shall develop, implement, and enforce a program to address storm water runoff for Redevelopment

	projects that disturb greater than or equal to one acre, including projects that are less than one acre that are part of a Larger Common Plan of Development or Sale, and ensure that Water Quality Capture Volume or Water Quality Capture Volume Equivalent structural or non-structural controls are in place to prevent or minimize water quality impacts to the MS4 from the Redevelopment project. Redevelopment projects shall provide treatment for a reduced portion of the project's impervious area, with allowable variances and exceptions. 3) The Permittee may allow alternative BMPs that do not use the Water Quality Capture Volume approach or the Water Quality Capture Volume Equivalent treatment approach, or are in combination with both, if they are shown and documented to have comparable or better pollutant reduction characteristics for the given use when properly designed, implemented, and maintained. These BMPs must be determined to be acceptable by the Permittee on a case-by-case basis, or, if appropriate, may be added to the menu of acceptable BMPs, provided that the Permittee documents the process and/or evaluation upon which the BMP was selected based on pollutant reduction. 4) Exemptions to post-construction water quality requirements shall be identified. Examples of exemptions can be provided upon request. Site Plan Review: c. The Permittee must develop, implement, and document procedures for plan review to address storm water runoff for New Development and Redevelopment projects that disturb greater than or equal to one acre, including projects that are less than one acre that are Part of a Larger Common Plan of Development or Sale, and ensure that Water Quality Capture Volume or Water Quality Capture Volume Equivalent structural or non-structural controls are in place in order to prevent or minimize water quality impacts to the MS4 from the project. d. The Permittee must document that review for post construction controls was conducted and is consistent with the Permittee's procedures. Construction Confirmation: c. The Permittee shall develop, implement, and document procedures for inspections of Water Quality Capture Volume or Water Quality Capture Volume Equivalent Facilities during construction of the facility. d. The Permittee shall develop, implement, and document procedures for inspections of Water Quality Capture Volume facilities after construction of the facility. e. Appropriate staff, MS4 representative, or designee shall perform and document inspections in accordance with the inspection procedures. Tracking: Permittee shall track and maintain records of the inspections conducted, in accordance with the Permittee's Procedures. Inspection Enforcement: d. The Permittee must develop, implement, and document enforcement procedures. The procedures must contain the following elements: 3. Identification of types of authorized enforcement responses available. 4. Criteria for determining and selecting appropriate enforcement response for various types of non-compliance, including those subject to immediate and/or escalated enforcement action.

	e. Based on inspection findings, take necessary follow-up actions, in accordance with the inspection and enforcement procedures to ensure compliance with the Permittee's post-construction program. f. Appropriate staff, MS4representative or designee shall perform and document enforcement actions in accordance with the enforcement procedures. 2. Return to compliance must be documented for violations receiving escalated enforcement. Rationale 7. The permit language should take into account the technical differences that exist between development and redevelopment. Requiring a uniform level of treatment does not recognize the benefit to redevelopment nor does it take into account inherent constraints that may exist on redevelopment sites. 8. Water Quality Capture Volume is an appropriate starting point for treatment, but other meaningful treatment options may be available for both development and redevelopment. The permit language should allow for flexibility in treatment types, to include infiltration BMPs, flow-through devices, and other BMPs that provide treatment without volume. 9. Recognizing that certain site development and redevelopment have inherent water quality treatment, or that providing formal treatment might not result in meaningful water quality benefits, the permit language should allow certain exemptions to formal water quality treatment. 10. The permit language should include flexibility in ensuring the long-term operation and maintenance of BMPs to allow for BMPs that are located on public property, single family lots, or where appropriate infiltration can be demonstrated such that ensuring operation and maintenance can include the encumbrance of property, agreement, land use code, or other appropriate mechanisms. 11. The permit language should take into account pavement management and roadway development and redevelopment in a manner that recognizes the unique constraints associated with linear projects. 12. Changes to the permit should promote the implementation of meaningful treatment facilities appropriate for the development or redevelopment scenario; the language should not be prescriptive and follow a one-size fits all model.
City of Greenwood Village	The Village is relying on the input from the Water Quality Forum MS4 Issues workgroup regarding the water quality requirements for Pavement Management in addition to suggesting the following for redevelopment: Redevelopment is defined as land disturbance that results in the removal of existing impervious area and /or creation of impervious area of a site that was previously substantially developed. Substantially developed means a site that is thirty five percent (35%) or more impervious area. For disturbance of existing impervious area greater than 5,000 SF and/or increase in impervious area greater than 1,000 SF, WQCV or alternative shall be required for 100% of the disturbed and increased impervious area. Variances granted for lots greater than 2.5 acres and a total of less than ten percent (10%) impervious.
Keep it Clean Partnership	1. The permit requirements for post-construction activities needed some clarification in order for Permittees to effectively implement them; however, more specific language will result in the need to add exemptions to the requirements, an approach similar to what was used in the Cherry Creek Basin regulation. 2. The Colorado Stormwater Council (CSC) has worked on the post-construction concepts and drafted some suggested permit

	language. KICP supports the CSC efforts. 3. New development should have a requirement to capture and treat 100% of the development site using Water Quality Capture Volume or Water Quality Capture Volume Equivalent structure or not-structural controls, allowing for minor deviations, such as driveways sloping out to the street. 4. The requirements for redevelopment could have less stringent requirements and allow for the consideration of site constraints that may be present. 5. There are situations during redevelopment in which existing sites are 100 impervious and buildings are at the lot line and if redeveloped, they would have little room, if any, for water quality treatment. Permit language should allow for the contribution or installation of water quality treatment offsite within the same basin as an option. 6. It has been indicated that the requirements for ensuring long-term operation and maintenance of permanent BMPs need some clarification for Permittees to effectively implement. Inspection a. The inspection frequency requirement must include: i. Inspection of all BMPs installed since the implementation of the Permittee's post-construction stormwater management program, within the permit term. b. The inspection documentation requirement must include: i. Date of inspection. ii. Indication of inspector. iii. BMP identification (name, permit, or location). iv. BMP design function status. v. Noting any required maintenance. Enforcement a. The Permittee shall take all necessary follow-up actions for non-compliance, in accordance with the Permittee's inspection and enforcement procedures, to ensure compliance. b. The Permittee or the Permittee's authorized representative or designee shall perform and document enforcement actions in accordance with the enforcement procedures. c. The Permittee shall document events involving enforcement and indicate resolution.
Aurora Water Department	Slide 42 addresses issues related to post construction programs. As in the comment above, we believe flexibility is absolutely necessary for the post construction program and have serious reservations about many of the conceptual permit elements the Division is considering. We will wait until the Division issues its actual proposed changes before we comment further.
Xcel	Xcel Energy would caution the Division on the requirement of every project meeting the 100% WQCV. The Division should consider including exclusions for linear utility projects from having to implement permanent water quality. Linear utility projects disturb more than an acre of disturbance all the time. Most of the time it is underground and the site is returned to the original grade with no increase in impervious area. In addition, the utility may not necessarily own the land where the service is installed so requiring a permanent water quality feature would cause a long-term maintenance issue.

	The Division's goal of establishing a more uniform standard for post-construction BMPs for new development and redevelopment is important for "setting the bar" for what is required to protect receiving waters in Colorado from adverse effects of stormwater discharges and associated pollutants. In many ways, this is consistent with the on-going EPA post-construction rule making, which seeks to establish greater uniformity across the country. While a more uniform standard will be of benefit to many sites in Colorado, there must be flexibility to allow for variations from the uniform standard when warranted by site-specific conditions. This point is particularly important for redevelopment sites where there may be significant constraints that limit feasibility of providing treatment for the entire site. In addition, Linear projects, such as roadway projects, may not be able to meet the 100% WQCV requirement due to space constraints and Right-Of-Way acquisition. The permit needs to provide flexibility for alternatives when 100% WQCV cannot be met.
Southeast Metro Stormwater Authority (SEMSWA)	Feasibility of Division's Concepts: These concepts did not get the coverage in stakeholder meetings that we feel was and is required for the program area that will make up the majority of long-term investment of resources by any MS4. Functioning post construction BMPs are the most expensive BMPs in terms of construction and, more importantly, long-term maintenance, than any of the program areas. The concepts deserved more time. We appreciate that the WQ Forum Work group was able to tackle the issue of linear projects, and some of that transfers to private development in terms of definitions, exemptions and alternatives. SEMSWA is fortunate to have performance standards established in our Criteria Manual; if others don't, provide the components needed and let the MS4's produce their own SOPs or Manuals, for Division review. SEMSWA also is a proponent of meaningful BMPs, rather than a 'one-size fits all' approach. Collaborative work should be done to make this program representative of its importance, both in money spent and future water quality benefits that can be expected. WQ Outcome of Concept: Designing a post construction BMP to a standard like WQCV as the 'be-all-end- all' to water quality is a mistake, and one that is not technically or science based. It is agreed that it is an easy place to start, and a good attempt to 'level the playing field', but there are other approaches beneficial to water quality. The fact that the Division will start requiring actual treatment BMPs to be constructed and functioning is a good start, but the hands of those tying new, innovative, regional, or site specific Low Impact Development approaches should not be tied in an effort to create a measurement of Maximum Extent Practicable. Costs: We budget four inspection staff, one Inspection Manager, and one water quality specialist for this program. We have an active program to retrofit low functioning BMPs and have recently started construction on a Demonstration Garden to promote - and often times introduce - LID practices. Additionally, we have several contract resources to assist in special circumstances, like a specialized or innovative BMP. We are willing to put as many resources towards this effort as needed because we manage stormwater on a system-wide, watershed basis and this program is our water quality legacy. Practice-based Effluent Limits: 1. Separate standard for New Development and Redevelopment cases to recognize the inherent difference for Redevelopment projects and to encourage infill and redevelopment, not urban sprawl. 2. Recognize a basin-wide approach like the Cherry Creek basin and encourage programs that go "above and beyond" with regional treatment approaches combined with onsite water quality enhancement practices.

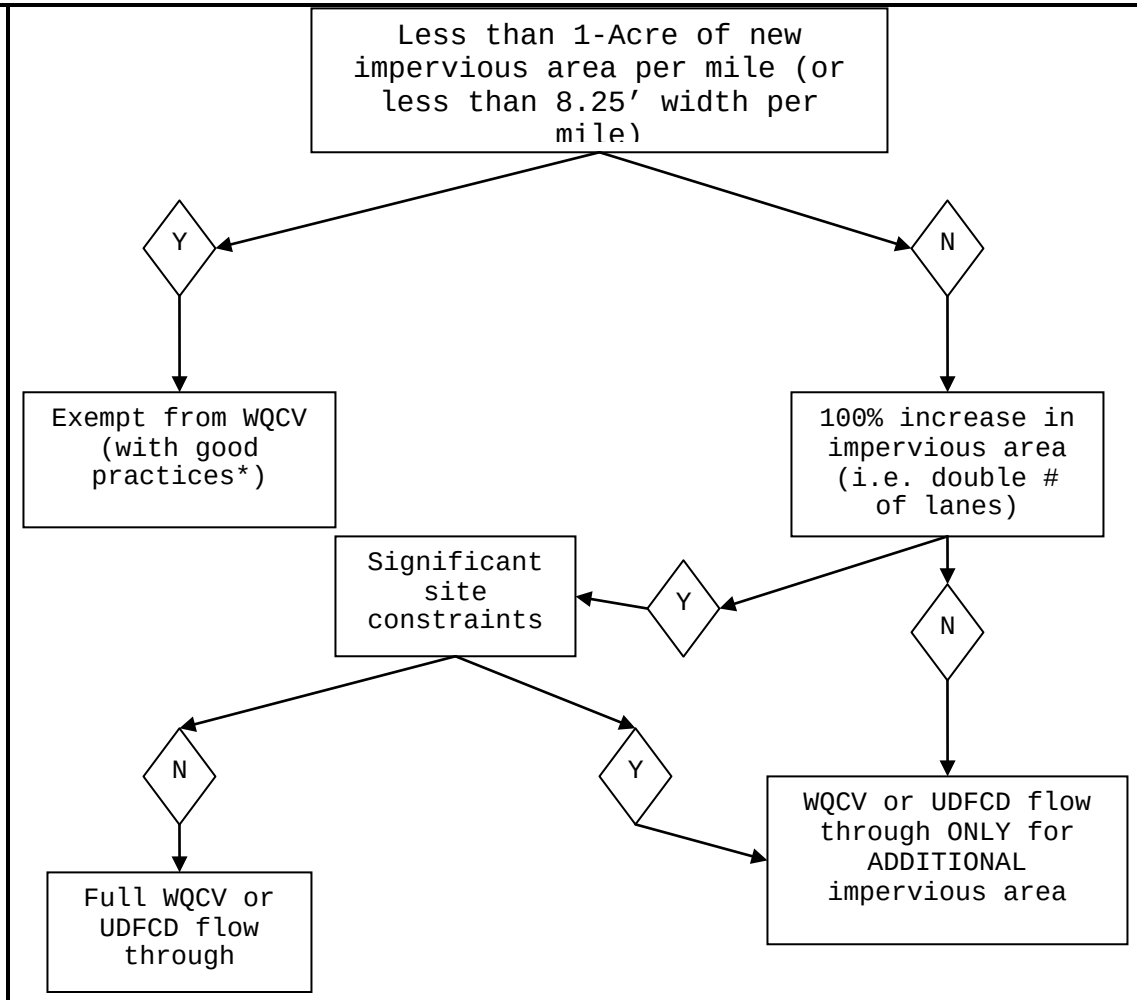
	3. Definitions of Development, Redevelopment, Substantially Developed, Constrained Site, Inconsequential Area, Excluded Roadway Project, Pavement Management, Routine Maintenance, WQCV Equivalent; WQ Enhancement (we can provide upon request) 4. Exemptions to Post Construction WQ Requirements (we can provide upon request) 5. Annual Report signature specific to the implementation of the Criteria an MS4 establishes for MCM 5. Alternatives: Use the Cherry Creek basin efforts as an example of pushing the envelope to get the most efficient and effective controls for future water quality benefits. Do not limit the innovation by MS4s to install BMPs that target their pollutants of concern with a 'one-size-fits-all' standard that does not have alternative approaches included. Some MS4s know their service area and what is needed; let them use meaningful BMPs and not restrict to WQCV BMPs, but encourage WQCV Equivalent BMP exploration based on technical research and science. Recommendation for Permit 8. Let the MS4 tie the scope and scale of implementation, oversight and enforcement to their own programs without specifying procedures, schedules, or BMP selection language in the permit. 9. Have MS4s submit their SOPs/Manual for how they are approaching MCM 5 for Division review, using the Division concepts as starting points for topics to be addressed in Program SOPs and Manuals. 10. Commit resources to getting to know how each diverse MS4 manages this program. 11. Allow alternatives to WQCV (equivalents) for redevelopment scenarios. 12. Make the Annual Report a meaningful certification. Make the signature that the Legal Contact provides be tied to the actual implementation of the Program area.
Wright Water Engineers, Inc.	Post -Construction - A. With regard to potential requirements, we concur with the Division's suggested approach of requiring that post-construction BMPs provide the water quality capture volume (WQCV) for new development. As noted in the Division's PowerPoint, this should not be a rigid 100% requirement because there are very few sites where capturing 100% of the WQCV from impervious areas will be feasible. In our experience, there are almost always some areas that will drain directly to the storm sewer system including sidewalks, access drives off of public roads and other site features. These are generally a small fraction of the overall impervious area, and we would suggest the WQCD include language along the lines of "to the maximum extent practicable" for this requirement. For redevelopment sites, providing 100% of the WQCV should be a goal rather than a requirement. The starting position should be to provide 100% of the WQCV for the overall redevelopment site; however, there must be provisions to allow for treatment of a reduce percentage of the site if the site truly is constrained to a level that makes providing the WQCV for the entire area either physically or economically impractical. B. In the PowerPoint prepared by the Division, we note that one of the ideas being considered is to have site plan review for permanent water quality features. Local governments and many MS4s typically do have site plan review processes that include review of permanent water quality features. Given the "unfunded mandate" that many MS4s face, we recommend that the WQCD avoid provisions in the permit that would result in multiple levels of review/approval (ie county/city review and MS4 review in areas where MS4 and county/city are not one in the same).

	C. WWE has reviewed a number of the alternatives that the Division is considering as an alternative to providing 100% of the WQCV. We strongly urge the Division to adhere to the WQCV concept, in conjunction with the 4 Step Process in Volume 3 of the Urban Storm Drainage Criteria Manual, to provide the basis for the design of permanent water quality facilities in Colorado. The concept of the WQCV is based on peer-reviewed engineering analysis that has been published in reputable technical journals and other publications. The concept of the WQCV was included in the American Society of Civil Engineers/Water Environment Federation Manual of Practice on Urban Stormwater Quality. The WQCV has well-established statistical and hydrological bases and accounts for economic feasibility by recognizing diminishing returns for providing water quality treatment for larger storm events that are more in the realm of flood control than water quality. The WQCV concept, in conjunction with the 4 Step approach, is a methodology that is consistent with green infrastructure and low impact development (LID) practices. We would urge the Division to avoid implementing a requirement based on total suspended solids (TSS) or other water quality parameters. To our knowledge, there is not a regulatory basis for providing a numeric effluent limitation for stormwater discharges for non-industrial land uses. Most commonly, regulations that are based on TSS require a certain percentage reduction as a measure of compliance. While a percent removal can be reasonably calculated and evaluated on an annual basis, application of this concept on an event basis is inappropriate and can misrepresent BMP performance and effects to receding waters. For example, if the influent TSS concentration is 50 mg/L and the BMP effluent concentration is 25 mg/L the calculated percent removal would be 50%, which would fall below the 80% threshold that is often used in stormwater regulations. The effluent from this BMP, however, would be "clean" by many standards (including comparison to typical TSS limits from industrial discharge permits) and, in fact, would be lower than TSS levels in many mountain streams naturally occurring during spring runoff. On the other end of the spectrum, if the inflow TSS load is 1,000 mg/L and an 80% removal is achieved, the effluent would still have a concentration of 200mg/L, which is high enough to cause potentially severe impact to receiving waters. Over the long-term, a facility size based on the WQCV and using the 4 Step Process will achieve TSS reductions will be protective of receiving waters; however, given the natural variability in precipitation, stormwater runoff, pollutant loading and timing of BMP maintenance, performance will vary from event to event and site to site. D. For post-construction water quality for roadways, the new regulations should clearly differentiate between maintenance activities and new construction activities. Maintenance activities should be excluded from post-construction water quality requirements. Sub-surface utility work often occurs in roadways and within the right of way. While it would seem fairly clear that installation of a new utility line with a new roadway would be considered new construction, would replacement of an existing utility line along the same alignment of the existing line be considered new construction or maintenance? In addition, many of the utility companies that perform this work do not own the roadway or the right of way, and they typically restore to pre-construction conditions not changing pre-construction surface. Therefore, utility companies performing work in areas where they do not own the property should not be expected to provide permanent water quality facilities. E. Based on our experience working with the Urban Drainage and Flood Control District (UDFCD) as well as clients conducting work within many Front Range MS4s, the criteria in Volume 3 often are not strictly followed. By and large, the requirement to provide the WQCV is followed; however, the BMP selection methodology and many of the design details including forebays, trickle channels and micro-pools are not strictly adhered to for small sites. We have seen a proliferation of extended dry detention basins for many small sites across the metro area. This particular BMP works best when there are at least 5 acres of impervious area draining to the BMP. Very often, this BMP is used for areas that are smaller than recommended for this particular BMP. For small sites, BMPs including rain gardens, permeable pavements and/or sand filters are better choices. Many small EDBs follow the design intent of Volume 3 by providing the WQCV; however, requirements for sediment forebays, trickle channels and micro-pools, all of which are important for the proper functioning

	of an EDB basin are omitted. We believe that closer adherence to the BMP selection guidance as well as the BMP details for various practices that are provided in Volume 3 of the Urban Storm Drainage Criteria Manual would improve the performance of facilities that are constructed within MS4s in Colorado. We do support having a variance process from UDFCD criteria based on site specific justification, good rationale and engineering.
EPA	EPA strongly supports the usage of numeric criteria and specific language related to post-construction discharges and supports using: • WQCV for 100% of impervious areas • Site plan review associated with contracting office technical representatives • Required O&M documentation • Closeout procedures whereby as-builts are verified and provided to MS4 staff • Inclusion of post-construction features into MS4 asset management systems • Use of the UDFCD Four-Step process and associated continuous simulation modeling process EPA has strongly recommended that numeric criteria be included in comments letters for all of the MS4 permits (individual and general) issued by CDPHE for the past 10 years. For this iteration of the MS4 general permit, it is of critical importance, as EPA is getting ready to propose an MS4 Rulemaking in 2013 which will include a numeric retention criterion. Colorado municipalities know there are inherent limitations in adopting a retention standard… specifically water law. There is a significant body of research and associated tools from the Urban Drainage and Flood Control District which propose usage of proven models to evaluate BMP effectiveness, evaluation tools such as the 4-step process, and concepts such as full-spectrum detention. Upon the issuance of a numeric retention standard by EPA, Colorado municipalities, will either have to comply with that standard (which will require retention or equivalent pollutant removal via treatment) or develop an alternative approach for approval by EPA. Without data on programmatic effectiveness statewide and refinement of existing tools through a permit cycle, it may be difficult for EPA to approve alternatives in Colorado. The most effective way Colorado MS4s can champion an alternative approach to a numeric retention criterion is by creating an alternative approach now which incorporates the best locally available research and tools and vetting it through a permit cycle.
Douglas County	The County believes there needs to be flexibility in the implementation of a mandatory 100% WQCV requirement for all new developments. The County believes flexibility is necessary to properly address water quality concerns for a wide variety of new development projects.
Urban Drainage and Flood Control District	post-construction BMPs (slide 42) where 100% WQCV may not be required (due to redevelopment with variances), it says “reduced WQCV percentage or area captured”. I think there’s some confusion within the group on this and in an effort for improved awareness I’m hoping it’s very clear in the permit. To properly design a BMP, the geometry is dependent on the watershed area. If you have (for example) 5 acres draining into a BMP designed to treat 2 acres it’s going to require a much higher level of maintenance than if you drain 2 acres to it and divert the other 3 acres. If it goes unmaintained it doesn’t provide the same level of treatment and can also become an eyesore and a source of complaints. I think it’s important to distinguish the difference here and clearly state this in terms of area captured and treated—“capturing and providing 100% WQCV for a reduced area of the site”.

VIII. Post Construction (Roadway) Part I.B.5

Stakeholder	Input
WQ Forum MS4 workgroup	Roadway specific Water Quality Capture Volume Requirements (WQCV). 1. New roadway = Full water quality capture volume (WQCV) 2. Pavement Management = Exempt from any WQCV 3. Roadway Redevelopment (see flowchart below)


Less than 1-Acre of new impervious area per mile (or less than 8.25’ width per mile)
Y
N
Exempt from WQCV (with good practices*)
100% increase in impervious area (i.e. double # of lanes)
Significant site constraints
Y
N
N
Y
Full WQCV or UDFCD flow through
WQCV or UDFCD flow through ONLY for ADDITIONAL impervious area
Note: Projects with documented significant site constraints where no WQCV or UDFCD flow through can be accomplished, the MS4 shall create a database listing the project information including WQCV requirements that could not be met. The MS4 shall pursue implementation of treating this WQCV in future projects.

	Definitions: Good Practices: Implementing runoff reduction practices where appropriate. Evaluate all pervious areas within the area of disturbance and route runoff through these areas when feasible. Pervious areas within and adjacent to a roadway section typically include grass buffers, grass swales, permeable pavements, tree lawns, and tree grates. Routing runoff from impervious areas into pervious areas may require any of the following: a. Constructing a level spreader where flows are concentrated to encourage sheet flow over a pervious area, b. Depressing the pervious area to accept runoff from a impervious area, c. Providing a barrier, such as a rail, between the landscaped area and an adjacent walk (based on concern for public safety), and d. Providing an opening in the curb and/or a sidewalk chase. New Roadway: Projects that disturb greater than or equal to one acre, including projects that are less than one acre that are part of a Larger Common Plan of Development or Sale, that are not substantially impervious and result in the creation of new impervious area. Example: New road construction in an MS4. Pavement Management: Rehabilitation, maintenance, and reconstruction of pavement intended to provide additional years of service life and optimize service and safety where the project is limited to the repair and replacement of pavement in a manner that does not result in an increased impervious area and where the infrastructure is not substantially changed. These activities are intended to include day-to-day maintenance activities, rehabilitation, and reconstruction of pavement. Examples: Roadway resurfacing, mill and overlay, white topping, black topping, curb and gutter replacement, concrete panel replacement, pothole repair. Roadway Redevelopment: Projects that disturb greater than or equal to one acre, including projects that are less than one acre that are part of a Larger Common Plan of Development or Sale, where the disturbance results in an addition of impervious area. Examples: Addition of bike lanes, turn lanes, acceleration lanes, deceleration lanes, through lanes, widening or shifting existing roads. Significant Site Constraints: It is understood that every project has a certain amount of site constraints. Significant site constraints may include issues such as no available storm sewer system; limited Right-of-Way; terrain issues such as steep slopes; major utility conflicts; safe access for maintenance; or environmentally sensitive areas that cannot be disturbed. UDFCD Flow Through: LID/MDCIA: Grass swales, grass buffers, undersized volume BMPs that don't rely on sedimentation time for treatment (so filter strips), and devices that meet the recommendations in the Underground BMP factsheet.

IX. Municipal Operations Part I.B.6

Stakeholder	Input
Colorado Stormwater Council	**6.** Pollution Prevention/Good Housekeeping for Municipal Operations a. The permittee must develop and implement an operation and maintenance program that has the ultimate goal of preventing or reducing pollutants in runoff from municipal operations. b. The program must prevent and/or reduce stormwater pollution from facilities such as municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, snow disposal areas, and waste transfer stations operated by the permittee. c. The program must prevent and/or reduce stormwater pollution from activities such as parks and open space maintenance, fleet and building maintenance, street maintenance, new construction of municipal facilities, and stormwater system maintenance, as applicable. d. The program must include a current list of industrial facilities the permittee owns or operates that are subject to separate coverage under the State's general stormwater permits for discharges of stormwater associated with industrial activity e. Bulk storage structures for petroleum products and other liquid chemicals shall have secondary containment or equivalent protection so as to contain spills and minimize any spilled material from entering State waters. i. Where additional structural controls are needed to comply with the requirements of this subsection, the controls shall be implemented within the permit term. Operations and Maintenance Procedures for Activities a. The permittee shall develop, implement, and document procedures for municipal activities to prevent or reduce pollutants in runoff from the permittee's municipal operations. b. The program must list the applicable municipal operations. This list must identify which municipal operations are impacted by Regulation 85. c. Procedures must include the following activities if applicable to the permittees municipal operations: 1. Street Sweeping 2. Power Washing 3. Snow & Ice Control (Including application of salt, sand, MgCl, or other deicer) 4. Snow Storage 5. Street Maintenance (Including curb & gutter) 6. Large Outdoor Festivals/Events 7. Replacement/Construction of Streets/Roads/Highways/Municipal Parking Lots 8. Salt & Sand Storage 9. Outdoor Material Storage 10. Outdoor Heavy Equipment/Vehicle Maintenance 11. Fueling 12. Street Sweeper Cleaning and Waste 13. Waste Management

	14. Spill Prevention and Response 15. Outdoor Fleet Maintenance 16. New Construction not covered under Streets/Roads/Highways and Municipal Parking Lots or Utilities and Storm System. This includes construction under one acre. 17. Maintenance of Parks and Open Space 18. Fertilizer, Herbicide and Pesticide Application 19. Maintenance of utilities and storm system 20. Replacement/Construction of utilities and storm system 21. Waste/Recyclable Transfer Stations (Residential drop-off collection sites) d. Written procedures for operation and maintenance must include specific information to prevent or reduce nitrogen and phosphorus in stormwater runoff associated with applicable operations and shall be developed and implemented within 18 months of the effective date of the permit. Facilities 1. The following facilities (if operated by a MS4) shall be inspected annually, as applicable. a. Vehicle maintenance facilities; b. Asphalt and concrete batch plants; c. Solid waste transfer stations; and d. Properties or storage yards that have exposed stockpiles of materials that can have an adverse impact on water quality. 2. Documentation must demonstrate that any deficiencies identified during the inspection are resolved. If deficiencies will require a period of time to resolve, a compliance schedule must be included in the Annual Report. Training a. All permittees shall inform or train appropriate employees involved in implementing pollution prevention and good housekeeping practices. Documentation for training shall include dates of training and names of employees. Rationale 1. Controlling pollution from municipal operations and maintenance must have a balance between clarifying minimum program requirements and prescribed administrative tasks. The suggested language provides clear program requirements that effectively use permittees resources to best protect water quality from municipal activities and facilities. 2. The suggested language captures the procedures already developed and submitted in the One Time Operating Procedures Report. 3. Requiring annual inspections at facilities with higher potential for water quality impacts ensures pollutant sources are controlled through the use of BMPs without unnecessary administrative tasks.
Keep it Clean Partnership	1. The Permittee must develop and implement an operation and maintenance program that has the ultimate goal of preventing or reducing pollutants in runoff from municipal operations. 2. The program must prevent and/or reduce stormwater pollution from facilities such as streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, waste transfer stations, and snow disposal areas operated by the Permittee.

3. The program must prevent and/or reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, street maintenance, new construction of municipal facilities, and stormwater system maintenance, as applicable.
4. The program must include a list of current industrial facilities the Permittee owns or operates that are subject to separate coverage under the State's general stormwater permits for discharges of stormwater associated with industrial activity.
5. Bulk storage structures for petroleum products and any other liquid chemicals shall have secondary containment or equivalent protection so as to contain all spills and prevent any spilled material from entering State waters.
    a. Bulk storage on mobile refuelers are subject to the authority and control of the U.S. Department of Transportation and are not subject to the requirements of this subsection.
    b. Secondary containment per the provision of this subsection shall be implemented by the expiration date of the permit.

Operations and Maintenance Procedures for Activities

1. The Permittee shall develop, document, and implement procedures to prevent or reduce pollutants in runoff from the Permittee's municipal operations.
2. The procedures must identify the Permittee's applicable municipal operations that are affected by the Permittee's program for reducing pollution from the Permittee's operation and maintenance activities. The procedures must also identify which municipal operations are affected by the requirements of 5 CCR 1002-85.
    a. A list of the operations affected by 5 CCR 1002-85 must be developed within 18 months of the effective date of the permit.
3. The procedures for preventing or reducing pollutants from municipal operations must include the following activities if applicable to the Permittee's municipal operations:
    a. Street Sweeping
    b. Power washing
    c. Snow and ice control (including application of salt, sand, MgCl2, or other deicer)
    d. Snow storage
    e. Street maintenance (including curb and gutter)
    f. Large outdoor festivals/events
    g. Replacement/construction of streets/roads/highways/municipal parking lots
    h. Salt and sand storage
    i. Outdoor material storage
    j. Outdoor heavy equipment/vehicle maintenance
    k. Fueling
    l. Street sweeper cleaning and waste
    m. Waste management
    n. Spill prevention and response
    o. Outdoor fleet maintenance
    p. New construction not covered under streets/roads/highways and municipal parking lots or utilities and storm system; this includes construction under one acre
    q. Maintenance of parks and open space
    r. Fertilizer, herbicide, and pesticide storage and application

a. Procedure must be updated within 18 months of the effective date of the permit to include management of fertilizer in order to reduce nitrogen and phosphorus in stormwater runoff associated with the MS4 Permittee's operations.

s. Maintenance of utilities and storm system
t. Replacement/construction of utilities and storm system

Runoff Control Plans for Municipal Facilities

3. The Permittee shall develop, implement, and document a runoff control plan (RCP) for each of the following Permittee-owned and/or operated facilities that do not have separate CDPS coverage, as applicable.
    a. Vehicle maintenance facilities (maintenance includes equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication)
    b. Asphalt and concrete batch plants
    c. Solid waste transfer stations
    d. Properties or storage yards that are used for ongoing or continuous storage and have exposed stockpiles of materials that can have an adverse impact on water quality, including stockpiles of road deicing salt, salt and sand, sand, and recycled asphalt pavement.
4. The Permittee shall maintain a complete list of these facilities. The list shall include the address of the facility, type of operation, size of the facility, and receiving water.
5. The RCP shall include:
    a. Site map of the facility.
    b. Description of the potential pollutant sources and evaluation of that potential.
    c. Stormwater management controls, including structural controls, non-structural controls, and SOPs.
    d. Inspections reports.
6. Facilities with RCPs shall be inspected annually:
    a. Inspections must indicate:
        i. Date of inspection.
        ii. Indication of inspector.
        iii. Evaluation pollutant sources and associated BMP controls.
        iv. Note any applicable RCP modifications needed.
    b. Documentation must demonstrate that any deficiencies identified during the inspection are resolved. If deficiencies will require a period of time to resolve, a compliance schedule must be included in the Annual Report.
    c. When a site is reconstructed, improvements should be added.
7. RCPs shall be developed within 18 months of the effective date of the permit.

Education and Training

1. The program must also inform public employees of impacts associated with illegal discharges and improper disposal of waste from municipal operations.
2. All Permittees shall inform or train appropriate employees involved in implementing pollution prevention and good housekeeping practices. Training documentation must include description of training, date, and names of employees.

MCM 6 Rationale

	1. The RCP should only be required for sites that have a high potential for impacting water quality. One temporary stockpile should not require the facility to maintain a RCP. 2. Requiring an RCP with annual inspections at facilities with high potential for water quality impacts ensures pollutant sources are documented and evaluated for BMPs annually. 3. The RCP should include information that is useful in controlling pollutants from the municipal facilities but not overly administratively burdensome. A map of the site along with pollutions source identification and stormwater controls give adequate level of information about the facility. Inspections will determine the adequacy of the implementation and subsequent water quality protection. 4. We prefer the plan to be called a Runoff Control Plan (RCP) instead of Municipal Facility Runoff Control Plan (MFRCP).
Aurora Water Department	Slide 46 relates to municipal operations. The Division indicates it is considering requiring secondary containment for bulk storage. This requirement could have significant cost implications. As referenced in slide 6, please provide information on what financial analysis you have done and how you might determine if this is a reasonable and cost-effective requirement to add to the permit.
Southeast Metro Stormwater Authority (SEMSWA)	Feasibility of Division's Concepts: SEMSWA has completed many MCM 6 efforts, including the One-time Operating Procedures Report, operational SOPs and Runoff Control Plans. We don't believe there is much additional work to be performed beyond tightening up some details including inspection frequencies and adding Regulation 85 nutrient requirements. SEMSWA believes that where there is bulk storage of a sufficient volume of oil and petroleum to require secondary containment, there is probably a Spill Prevention, Control and Cleanup (SPCC) Plan in place per RCRA regulations that would suffice for addressing this Division concept, rather than adding it to the MS4 Permit renewal requirements. For other liquids, secondary containment requirements should be assessed by the MS4 depending on the priority of the pollution potential, and if other BMPs make more sense in certain circumstances. WQ Outcome of Concept: Required inspections and documentation at major facilities are for prevention of water quality impacts, based on potential pollution prevention, and as such provide indirect WQ benefits. Secondary containment of bulk storage fluids is also a preventative measure to protect water quality. Costs: Efforts for MCM 6 are primarily physical structures that need to be constructed at facilities for secondary containment, coverings and water quality treatment BMPs. These are big ticket items, in the 10's of thousands of dollars. Additionally, staff time is necessary for inspections, documentations, and to a lesser extent, design engineering for BMPs. SEMSWA also has several contract resources to assist in special circumstances, like an internal self-audit or training effort. We are willing to continue to fund this MCM effort because preventative measures are more cost effective and efficient than reactive efforts. Practiced-Based Effluent Limit: 1. Clear, concise language as to what level of controls are needed so that these can be included in SOPs and RCPs, where the specifics of MCM 6 efforts should be contained. Alternatives:

	Allow oil and petroleum bulk storage to be covered under RCRA guidelines as part of a facilities SPCC efforts, as applicable. Allow MS4s to assess the pollution potential from other liquids in bulk storage to determine if secondary containment structure costs are warranted as compared to other BMPs. Recommendation for Permit 1. Let the MS4 tie the scope and scale of implementation, inspection, and oversight to their own policies, without specifying procedures, schedules, or BMP types in the Permit language itself. 2. Have MS4s submit their SOPs/MCM 6 Manual/RCPs for Division review. 3. Commit resources to getting to know how each diverse MS4 manages this program. 4. Allow alternatives to performance standard BMPs for water quality protection at municipal facilities, as treating for targeted pollution sources is a chance to try new technologies. 5. Make the Annual Report a meaningful certification. Make the signature that the Legal Contact provides be tied to the actual implementation of the Program area.
EPA	<u>Code of Federal Regulations (CFR) Requirements:</u> • 40 CFR 122.26 (a)(vi)(4) states that, "Discharges through large and medium municipal separate storm sewer system…an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or 180 days prior to commencing such discharge: the name of the facility; a contact person and phone number; the location of the discharge; a description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility; and any existing NPDES permit number." • 40 CFR 122.26 (a)(vi)(9)(D)(iii)(c) parts (A)(B)(C)(D)(E)(F)(G) - indicate requirements that the operator of a storm water discharge associated with industrial activities shall provide. <u>Concern with Current Permit Requirements:</u> There are not sufficient requirements in the current permit to require mechanisms and procedures to ensure the CFR requirements are met. The current permit does not include industrial requirements specific to MS4s. This is of specific concern because CDPHE relies heavily on MS4s to perform compliance assistance and/or enforcement for construction and industrial stormwater discharges within MS4 boundaries. Given the compliance assistance and enforcement relationship established between the State and MS4s, measurable program mechanisms and procedures for ensuring that the CFR requirements are met should be added to the permit to ensure that the MS4 is adequately targeting, following-up, and tracking industrial activity. An effective industrial stormwater program requirement for small MS4s should include education and outreach to industrial facilities and coordination with CDPHE regarding location and permitting of regulated industrial activities.

X. Nutrients Parts I.B.1 and I.B.6

Stakeholder	Input
Aurora Water Department	Slide 49 addresses nutrients. As a participant all through the stakeholder and rule-making hearing process leading up to Regulation 85, I assert that the language related to MS4 permittees was carefully considered and agreed to by both the Division and the MS4 representatives. There is absolutely no reason to modify the language we all agreed to. The regulation has barely become effective and to change it before we have a chance to see how it works is premature and unnecessary.

XI. Monitoring

Stakeholder	Input
Golden	Monitoring The Division has proposed dry weather monitoring requirements in the new permit. Some MS4s have already pointed out reasons why dry weather monitoring for E. Coli may not provide sound scientific data on the dry weather contributions of E. Coli from an MS4. Still others have raised objections to gathering TMDL related data from only one of many potential sources. Golden agrees that these are valid concerns, but has yet another concern with this proposal. Golden believes that alternatives to this prescriptive permit condition may better achieve the stated goal. If the goal of the monitoring is solely to collect data to develop WLAs for TMDLs, the requirement will, at best, collect a partial data set. If the goal is to identify and eliminate E. Coli sources from stormwater, the monitoring requirement may deter the use of more effective and efficient methods. For example, MS4s that operate sanitary sewer collection systems might chose to perform smoke testing of the sanitary sewer system. Smoke testing is an effective, inexpensive and fast way to identify potential cross connections between the sanitary and storm sewer systems – and controllable contributions of E. Coli to the storm sewer. For other MS4s, video inspection of storm sewers, which is often performed as an element of monitoring the condition of the asset, may well be the preferred method. Again, the flexibility to implement the best process for the MS4s situation is critical.
Mesa County Engineering Division On behalf of the 5-2-1 Drainage Authority	The 5-2-1 Drainage Authority (5-2-1) appreciates the MS4 Permit Renewal meetings that the Water Quality Colorado Division has provided. Per the request of the Division during the Pre-Public Notice meeting, we are submitting input for your consideration. We believe the input submitted provides the level of clarity the Division has indicated is necessary, while still allowing the flexibility needed to meet communities' goals with the appropriate documentation. 5-2-1 is very concerned with the goals of the monitoring concepts as currently proposed. It is not appropriate or reasonable to require monitoring for TMDL-related pollutants through the Phase II MS4 Stormwater General Permit if the pollutants are not solely associated with stormwater runoff. Even if stormwater is a partial source of the pollutants in any water body, TMDL monitoring should evaluate all potential and actual sources in order to determine which, if any, permits are subject to additional monitoring requirements and controls. Singling out the Phase II MS4 Stormwater General Permit is not appropriate without a clear link between stormwater discharges and a statewide pollutant that is causing impairment. 5-2-1 also believes it's important to bring to light that the Division postponed updating the 303D list in 2014 to 2016. If the 303D list is a priority for the Division why the delay in updating the list from 2014 to 2016?

	5-2-1 does have discharges to segments impaired by E.Coli and Selenium. The land use of the segments impaired (Leach Creek and Adobe Creek) by E.Coli are primarily agricultural. Once TMDL development is occurring for Leach Creek and Adobe Creek, then all sources should be considered. Additionally there is an abundant amount of wildlife within the watershed boundaries that contribute to the E. Coli concentrations; unfortunately it is not feasible to monitor every aspect that could impact water quality. Requiring monitoring at this point is not an efficient use of limited resources by local governments. Selenium has been studied in depth in Western Colorado. A number of studies performed by USGS indicate that the major source of Selenium in Western Colorado is from irrigation return flows from soils containing large amounts of selenium. Various irrigation programs have been implemented to reduce irrigation return flows in Western Colorado. Local governments are also encouraging xeriscaping for new developments. The urban development that occurs in the 5-2-1 jurisdiction is on land that was previously irrigated. Therefore dry weather flows from urban development should contain minimal selenium. Requiring monitoring by 5-2-1 on a segment that has a medium priority on the 303D list, and that is very unlikely to have negative urban impact, is not an efficient use of limited resources by local governments. We appreciate the Division's consideration of the input included here and look forward to providing comments on specific draft permit language during the Public Notice process.
Keep it Clean Partnership	1. Applicability. The requirements of this section apply to MS4 discharges from outfalls owned by the Permittee that directly discharge to a 303d listed impaired stream segments identified in the Permittee's MS4 permit or certification, the Permittee shall develop, document, and implement a dry weather monitoring program targeting indicators of sanitary sewer discharges into the storm sewer system. Dry weather monitoring shall be done only when there has been less than < 0.1 inches rain within a 48-hour period preceding the monitoring and on discharges that are not the result of surface runoff from rain or snowmelt events. 2. Dry Weather Monitoring Plan. Permittees shall develop, implement, and document a dry weather monitoring plan to identify and eliminate sanitary sewer sources within 36 months of the effective date of the permit. The plan shall include the following: 1. Location: The method to identify the "outfalls of concern" that are to be included in the dry weather monitoring program. Identification may be based on review of MS4 system map and a desktop analysis and/or field survey of outfalls that would likely be contaminated by sanitary sewer discharges. The identified outfalls must include all outfalls that are greater than 36" in diameter or equivalent and have dry weather flow greater than or equal to five gallons per minute. 2. Parameter: A list of indicators of contamination and criteria for determining likelihood of sanitary sewage contamination and threshold values shall be identified in the dry weather monitoring plan. The threshold values shall be used to determine possible sanitary sewage sources. 3. Procedures: The sampling and testing procedures and methods to be used in implementing the monitoring plan must be documented. Following the completion of the dry weather monitoring plan, the identified outfalls shall be sampled and tested for indicators of illicit discharges two (2) times during the permit term during dry weather conditions and at least 30 seven (7) days apart during periods which exclude the irrigation season. 4. Reporting: The Permittee shall document the removal of identified illicit discharges, including any enforcement actions. The Permittee shall retain documentation of all monitoring results. Following the completion of the dry weather monitoring plan and the first sampling event, the Permittee shall submit the following information in the annual report: i. Number of outfalls identified for inclusion in the dry weather monitoring plan.

ii. Number of illicit discharges detected.
iii. Number of illicit discharges eliminated.

5. Collaboration: To comply with the requirements of this section, Permittees may collaborate with other MS4 Permittees or participate in a coordinated monitoring effort that identifies data and the supporting the objectives of each participating MS4. In addition, a Permittee may use monitoring data generated from an existing, ongoing monitoring program or plan. The Permittee shall submit a certification to the Division that a collaborative monitoring program or existing monitoring program is in place, meets the Dry Weather Monitoring Plan objectives, and shall include the following:
   i. For collaborative monitoring programs, the Permittee shall describe the program and shall include a description of the methods used for sample collection, field, and laboratory analysis or providing a reference to general information available for Division review.
   ii. For existing monitoring programs implemented by the MS4, the Permittee shall describe the source(s) of the existing data.
   iii. All existing monitoring program data used to meet the requirements of this section shall have been obtained from sources using quality assurance/quality control protocols and standards in general accordance with accepted good monitoring and analysis procedures.

Monitoring Rationale

1. It is not appropriate or reasonable to require monitoring for TMDL-related pollutants through the Phase II MS4 if the pollutants, such as selenium, are not associated with stormwater runoff and cannot be controlled through the use of stormwater BMPs. Even if stormwater is a partial source of the pollutants in any water body, TMDL monitoring should evaluate all potential and actual sources in order to determine which, if any, permits are subject to additional monitoring requirements and controls. Singling out the MS4 general permit is not appropriate without a clear link between stormwater discharges and a statewide pollutant that is causing impairment. However, monitoring for detection and removal of illicit discharges may be a reason to include some monitoring requirements in the MS4 general permit because contamination caused by illicit discharges can be addressed by Permittees.
2. Selenium is widespread and is a low priority. Monitoring does not provide useful information to Permittees for controlling selenium, and we are unclear what the Division's strategy for controlling selenium is and what, if any, connection selenium has to stormwater runoff (as opposed to groundwater seepage into stormwater conveyance systems).
3. The proposed language provides a way to identify and address potential sources of sanitary sewage into the MS4 which may pose threats to human health. Elimination of these sources and illicit connections into the MS4 is appropriate for inclusion in the Phase II MS4 permit. For this permit renewal, the language also allows flexibility for Permittees to determine what monitoring best meets their program goals and specific situations.
4. If prescribed monitoring requirements are included in the Phase II permit, there needs to be extensive stakeholder involvement to determine appropriate requirements; the current permit renewal process will not allow for this. If more monitoring will be included in the permit renewal for 2018, stakeholder involvement should begin now.
5. Monitoring requirements for E. coli should also not be included in the general permit. E. coli can have a number of sources, such as human and pet waste, wildlife, and re-growth. Recent epidemiological studies in California indicate that non-human sources of E. coli have lower illness risks. In recent work, Boulder found that most outfalls had low concentrations of E. coli; however, additional monitoring of wastewater constituents (e.g. optical brighteners, conductivity, caffeine, etc.) and storm sewer inspection failed to show evidence of sanitary sources. Additional DNA analysis of E. coli indicated that the source of low levels

of E. coli was likely re-growth. If E. coli monitoring remains in the permit, additional in-stream monitoring of E. coli should be optional and encouraged to establish and limit the area of concern in the impaired stream segment within the MS4 permitted area.

6. Monitoring to detect sanitary sewage discharges should occur during periods of low flow conditions and when irrigation is likely. This is based on the potential to find illegal connections during periods when intermittent sources are more easily identified, and when groundwater levels are low. The proposed language allows the Permittee to develop a dry weather monitoring plan that takes into account the conditions affecting the Permittee's MS4.
7. Even though the suggested language provides flexibility for Permittees to include monitoring, the requirements will need extra outreach by the Division, so we suggest that the Division provide examples of programs that will meet the Divisions expectations in a guidance document. With respect to monitoring for sanitary sewage sources, the guidance document could specify which monitoring parameters, in addition to E. coli, are acceptable (e.g. ammonia, surfactants, conductivity, etc.) and how the Division expects them to be used to identify contamination.

The following is an example of a monitoring approach that might be helpful in developing guidance:

A. Identify Outfalls of Concern

Outfalls of concern shall be identified through a desktop analysis and/or field survey to determine which outfalls are flowing during dry weather conditions and which might be likely to contain illicit discharges. Field surveys shall be conducted during low groundwater and periods when irrigation flows are unlikely, typically during the months of September to November.

B. Outfall Monitoring

Outfalls of concern shall be monitored to identify possible illicit discharges and illegal dumping. Outfalls of concern shall be monitored twice, at least seven days apart during months of July to November when low flow conditions and periods of irrigation flows are unlikely.

Outfalls of concern shall be monitored for the constituents listed in Table A. Based on results of monitoring, outfalls shall be categorized based on the following criteria:

a. High Risk: Includes outfalls concentrations of E. coli and two other constituents over threshold values. Outfalls identified in this category shall have the following activities:
    i. Initiate source identification through implementation of the IDDE plan to identify possible sanitary and other sources.
    ii. Continue monitoring.
b. Medium Risk: Includes outfalls with concentrations of E. coli and one or fewer constituents over threshold values.
    i. Continue monitoring.
c. Low Risk: Include outfalls with no constituents over threshold values for two consecutive sampling events.
    i. Discontinue monitoring.

TABLE A: Threshold Values for Water Quality Parameters

Parameter	Description	Types of Detectable Discharge	Threshold Values
E. coli	Bacteria indicative of wastewater contamination	Wastewater	12,000 cfu/100ml
Ammonia	Chemical typical of sanitary	Wastewater/wash water	Ammonia/

	<table><tr><td>Potassium</td><td>wastewater contamination if above >0.1 mg/L</td><td></td><td>Potassium ratio >1.0</td></tr><tr><td>Anionic Surfactants (detergents)</td><td>Used to clean clothes and for use as cleansers</td><td>Wastewater/wash water</td><td>0.25 mg/L</td></tr><tr><td>Conductivity</td><td>(i.e. Specific Conductance) typically is low in groundwater and higher in wastewater</td><td>Wastewater/wash water, industrial waste, roadway salt</td><td>1500 µmhos</td></tr></table> NOTE: Threshold Values for Indicator Parameters. Adapted from "Illicit Discharge Detection and Tracking Guide," by Center of Watershed Protection (CWP). 2012. Center of Watershed Protection (CWP) and Shergill and Pitt 2004; Modifies Pitt et al. 1993 Alternatively, Permittee can use: Flow Chart to Identify Most Likely Significant Flow Component Contributing to Elevated Fecal Indicator Bacteria (Source: Shergill and Pitt 2004; Modifies Pitt et al. 1993).
Aurora Water Department	As stated in comments on slide 6 above, costs and necessity of monitoring have yet to be considered or justified. Representatives at the pre-public notice meeting gave compelling information of their costly and largely inconclusive efforts in these areas. I am not convinced that the data collected will truly be useful in developing TMDLs as a Division representative stated at the same meeting. If addressing impaired streams is a priority of the Division, the MS4 community is willing and able to assist in those efforts. Writing monitoring requirements into a general permit is not the best way to achieve this goal.
Colorado Stormwater Council	The Council is very concerned with the goals of the monitoring concepts as currently proposed. It is not appropriate or reasonable to require monitoring for TMDL-related pollutants through the Phase II MS4 Stormwater General Permit if the pollutants are not solely associated with stormwater runoff. Even if stormwater is a partial source of the pollutants in any water body, TMDL monitoring should evaluate all potential and actual sources in order to determine which, if any, permits are subject to additional monitoring requirements and controls. Singling out the Phase II MS4 Stormwater General Permit is not appropriate without a clear link between stormwater discharges and a statewide pollutant that is causing impairment. The Council is relying on the Water Quality Forum MS4 Issues Workgroup, as well as the general concept input we are including for MCM 5 language regarding permanent water quality requirements for pavement management. The Council defers to the County input previously provided to the Division regarding the increase in permit coverage area to ensure that urban growth is captured. However, we would support the Division in considering flexibility in projects that do not meet urban area criteria in the expanded permit boundaries. We appreciate the Division's consideration of the input included here and look forward to providing comments on specific draft permit language during the Public Notice process. Please contact the Permit Compliance Committee of the Council for additional clarification.
Southeast Metro Stormwater Authority (SEMSWA)	Feasibility of Division's Concepts: It has been stated that the Division wants to 'tie the MS4 Permit to the 303d list of impaired waters'. At the April 18th Listening Session, the Division stated several questions regarding monitoring as part of the permit renewal, in order to get the MS4s to 'go a level deeper in commenting on the monitoring concept'. To the best of our recollection from the meeting, the questions were as follows: Do we agree that e coli and selenium are real problems? Do we agree that an MS4 could be an 'allocatee' and don't you want data? The Division's point was that 'at the end of the day, monitoring data may be the only way to save money in a costly

process, and although it is frightening dialogue, the place to start is with data'. The monitoring concept, in a nutshell, is either several steps ahead of where MS4s need to be with respect to impaired stream segments during this permit term or is being suggested for the wrong water quality protection process.

1. Dry weather flows from any outfall should first and foremost be an IDDE incident to be investigated using protocols in MCM 3, IDDE program.
2. If dry-weather flows are coming from a 'pipe', the Division is indicating that this is a 'point' source and wants to give us an 'allocation', but they are not 'point' sources to MS4s, they are non-point stormwater outfalls that should be investigated as such within the MS4 programs, specifically IDDE.
3. The TMDL process includes several steps prior to 'allocations', including identification of background concentrations, identification of waste sources, and an evaluation of 'controllable' sources. The Division requesting monitoring to get a jump on 'allocation' assignments is way ahead of the process; which is, in our opinion, a Division process, not an MS4 permit process.
4. We agree that data regarding impaired streams are needed and useful, but the burden of collecting the data is the Division's when they identify a stream segment as a high priority and are required to do a TMDL.
5. The impaired streams for selenium in the SEMSWA Service area are identified as Low Priority. Perhaps it is low priority because it is naturally occurring in the soils at a fairly consistent level. Possibly, development is the key to controlling selenium in our service area; by paving over the soils, less selenium will make it into our surface streams from stormwater runoff. This has been postulated for the Cherry Creek basin phosphorous concentrations as one reason why P values decreased with increased development in the basin. Perhaps a lesson here is to not include a pollutant in MS4 permit requirements other than sediment and nutrients already identified as a source and somewhat controllable in typical stormwater runoff.

WQ Outcome of Concept:
The MS4 permit programs have been promulgated to keep sediment (MCMs 4 and 5) and wastes (MCMs 3 and 6) out of our stormwater systems. They have not been promulgated to keep selenium or e coli out, except as part of the MCM 3 process, which requires mitigation of a potential repeat of the occurrence, not a monitoring program. There is little perceived WQ benefit as there does not appear to be sufficient quantity, quality, specificity, or source identification to jumpstart a TMDL process.

Costs:
The cost of monitoring is an unknown at this time. We don't anticipate many dry weather flows, and if we do, it will be a cross-connection we will correct under MCM 3, or groundwater flows that we monitor as part of MCM 3.

Practice-based Effluent Limit:

2. NA

Alternatives:
We are already required to correct a cross-connection potential if any dry-weather flows are observed. We should not be required to monitor for a potential TMDL process until a background concentration has been established, and waste sources that can be controlled have been identified by the Division.

	Recommendation for Permit Do not include in Permit renewal language.
Douglas County	The County is very concerned with the proposal to include monitoring as part of the permit rewrite. The County does not believe it is appropriate or reasonable to require monitoring for selenium, which sources include groundwater and E-coli which originates in a wide range of non-stormwater sources in the Stormwater General Permit. The County recommends the Division strike these monitoring requirements from the permit rewrite.

XII. Coal Tar Asphalt Sealant

Stakeholder	Input
Douglas County	The County believes any regulations related to the prohibition of coal tar asphalt sealants should be developed on a statewide basis by the Division and not included in the stormwater permit rewrite.

General (Input not categorized in substantive areas of review)

Stakeholder	Input
Metro Housing Coalition Home Builders Association of Metro Denver	**<<portions of input moved to specific substantive areas of review>>** General Comments: We would like to understand the justification of the proposed changes with real data and evidence supporting such a shift to the General Permits for Stormwater Discharges associated with MS4's. We have worked on and have followed closely Senate Bill 13-073 General Permits Stormwater Rule-making and like that bill, would like the following bullet points addressed in regard to the justification of the variations proposed to the General Permits for Stormwater Discharges associated with MS4's which encompass the following: ☐ Providing a statement of basis and purpose for the changes to existing and potential permit holders; ☐ Providing evidence and data in support of the changes to existing and potential permit holders; and ☐ Providing a cost-benefit analysis of the effect the changes will have on existing and potential permit holders. After review of the proposed changes in the recent slide presentation, we do not see the basis and purpose of the concept as presented. The changes proposed will take guidance document items and put them into the General Permit – a protocol that takes away flexibility from local municipalities. We would like the guidance document items to remain in the guidance document and do not see the necessity of putting a myriad of items into the permit that should not be in a general permit. An extreme example within the presentation included a discussion of adding to the permit exempting charity car washes if done one time per year. Why would this be added to the general permit? Why is this being discussed, as one level of detail is not relevant for a General Permit but rather is more effective as guidance. Why would this level be added to the General

	Permit and why is this being discussed, as one example of many at the General Permit level? At some point, there will be so much information provided in the General Permit that we are concerned that our members would not understand what is required and the municipalities would not be able to enforce every provision or would be coerced into enforcement for every observation made in the field, removing any flexibility between the builders and the municipality. The General Permit should be a framework for compliance. We would prefer that guidance remain as guidance and not included in the General Permit. We suggest this remains a municipal issue at the local levels.
Colorado Stormwater Council	**<<portions of input moved to specific substantive areas of review>>** The Colorado Stormwater Council (Council) appreciates the MS4 Permit Renewal meetings that the Water Quality Colorado Division has provided. Per the request of the Division during the Pre-Public Notice meeting, we are submitting input for your consideration. We believe the input submitted provides the level of clarity the Division has indicated is necessary, while still allowing the flexibility needed to meet communities' goals with the appropriate documentation. The Council may modify any comments or concerns through the permit renewal process as specific permit language is distributed for review. In general, we have the following comments: The Division should include a process to address program areas that may need to be submitted by MS4s to meet the intent of the permit goals differently than specified in the permit. Something similar to the following: If the permittee chooses to initiate approval of an alternative program that meets the intent of the permit for a specific program, the permittee must notify the Division in writing of the request with the following program analysis, justification and evaluation: 1. Program for which an alternative is being sought; 2. Why an alternative is being sought; 3. An analysis of how the program is expected to achieve the goals of the permit; 4. How the program will meet the permit requirements; and 5. An implementation schedule, if applicable.
Golden	**<<portions of input moved to specific substantive areas of review>>** The City of Golden appreciates the efforts of the Division to coordinate stakeholder meetings to discuss concepts related to the renewal of the MS4 Stormwater General Permit. The city would like to take this opportunity to provide feedback to the Division, as requested at the May 6 Pre-public Notice meeting. In general, the city supports changes to the MS4 Stormwater General Permit that serve to improve water quality. However, the city does not support changes to successful programs to address the Division's lack of resources, or to improve auditability. The city agrees with the Division's goals outlined at the February 19, 2013 meeting to: • Minimize the need for current successful programs to change; • Consider permittees' limited resources and staff; and • Demonstrate the need for changes to permit language. We understand that when permit requirements are not specific enough, determining compliance can be difficult. We also acknowledge that there are areas in which both the Division and the MS4s would benefit from more clearly defined permit requirements. However, we are very concerned that the Division is moving toward a "one size fits all" approach which may limit our

	ability to be as responsive and effective as we are today in meeting the goals of the program. The flexibility to customize programs is a critical part of the current permit and should not be lost in any changes to the permit. We are also concerned that focusing on auditability and increased levels of documentation will require use of limited resources to meet administrative requirements in lieu of utilizing resources to implement more effective programs that protect water quality. Given the general concerns above, we request the Division consider the following when developing the MS4 Stormwater General Permit language: Flexibility It is critical to maintain flexibility as described above and the city believes this can be effectively achieved in a couple of different ways to ensure adherence to a standard of compliance that is clear, documented and auditable. One option is to require plans, procedures and documentation similar to the existing framework of the IDDE Plan whereby the permit requirements are clear but specifics are developed by the individual MS4. Another option would include a process to address program areas that may need to be submitted by MS4s to meet the intent of the permit goals differently than specified in the permit. For example, the city is concerned about the potential permit changes to the Construction Sites program and the effect to our implementation of our Qualifying Local Program. The city appreciates the Division's consideration of the above concerns and looks forward to the opportunity to provide comment on permit language.
Aurora Water Department	**<<portions of input moved to specific substantive areas of review>>** After attending the pre-public notice meeting on May 6, we put together some thoughts as requested. I'm not sure what Martha Rudolph meant by the "environmental outcome" we expect, but here are some of our general impressions and questions. Slide 6 lists the factors that have informed this process. Among them are science (published studies and water body information), implementation experience, level of public priority and affordability. We are extremely interested in knowing 1) what published studies were used; 2) what water body information was evaluated; 3) the findings and conclusions you reached following the questionnaires submitted by the Phase II permittees in 2012; 4) what the public priorities are; and most of all 5) how you evaluated affordability. We respectfully request answers to the above items but most especially we would like information on your affordability analysis. It appears that many of the changes to existing programs that have been discussed have significant costs associated with them, in particular the only-recently-proposed monitoring requirement. As a Phase I permittee, we have expended tens of thousands of dollars each year for over 15 years on monitoring which has seldom been used by the Division. In fact, during the development of the nutrient regulations, monitoring was removed from a preliminary proposal by the Division after discussions in which Division staff admitted they did not review the data submitted. The remainder of our observations are of a general nature. We will continue to be involved as the permit drafting process continues. We hope you find our comments helpful and we look forward to receiving answers to the questions we raised in this email. Please contact me if you would like to discuss any of these issues further.